Supreme Court, U.S.
FILED

No. 03124 2 FEB 2 7 2004

OFFICE OF THE CLERK

In The

Supreme Court of the United States

In re DIANE L. HOLBROOK,

Petitioner.

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND/OR PROHIBITION

DIANE L. HOLBROOK
Petitioner
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

QUESTIONS PRESENTED

Issuance by the Court of an Extraordinary Writ authorized by 28 U.S.C. § 1651(a) is not a matter of right, but of discretion. The writ will be in aid of support of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other Court because of abuses of judicial power where judge refuses to take some actions he is required to take. Another case, judge takes some action he is not empowered to take from exceeding its jurisdiction in matters over which it has cognizance or usurping matters not within its jurisdiction to hear or determine. The Florida Bar, Fla., 329 So.2d 301, 302. A writ issued by a superior court, directed to the judge and parties of a suit in an inferior court, commanding them to cease from . . . , upon a suggestion that the cause originally, or some collateral matter arising therein, does not belong to that jurisdiction, but to the cognizance of some other court. The writ of prohibition is the counterpart of the writ of mandamus directing the restoration of the complainant to rights or privileges of which she has been illegally deprived.

Federal Rules Of Civil Procedure for the United States District Courts Rule 60(a) and Rule 60(b), State Of Florida Rules Of Civil Procedure Rule 1.500. Defaults and Final Judgments Thereon (a) By the Clerk, and Rule 1.500(e) Final Judgment, and Rule 1.540. Relief from Judgment, Decrees, or Orders (a) Clerical Mistakes, and Rule 1.540(b)(1) mistake, inadvertence, surprise, or

QUESTION PRESENTED – Continued

excusable neglect; and Rule 1.540(b)(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or *other misconduct of an adverse party.* Case #1 Petition For A Writ Of Certiorari and Petition For Rehearing No. 01-31 *Diane L. Holbrook v. Nationwide Mutual Insurance Company*, a foreign corporation and Case #2 Petition For Writ Of Certiorari and Petition For Rehearing No. 02-1613 *Diane L. Holbrook v. Allied Van Lines, Inc.*, a foreign corporation would be the two other cases presenting the same question(s) as in Case #3 *Diane L. Holbrook v. Eileen Buchmann, ET AL.* from lower tribunal No. 4D03-187. A different case involving Cases No. CL92-306, CL93-350 and CL96-7 in the Circuit Court Of Fauquier County of the State of Virginia for *conflict of interest* and fraud, misrepresentation, or *other misconduct of an adverse party* in regards to the writ of mandamus.

1. Are clerical mistakes in judgments, decrees, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party and after such notice, a violation of Rules of Civil Procedure Rule 1.540(a), Rule 1.500(a) and Rule 1.500(e), as well as, a violation of Federal Rules of Civil Procedure Rule 60(a) and Rule 55(a)?

2. Is Judge William L. Roby chargeable with any abuse of his power, when judge takes some conflict action of Judge Ben L. Bryan, Jr.'s Order regarding Docket Call and judge refuses to take some action he is required to take? Do his actions constitute an abuse of discretion *or* were his actions a mistake, inadvertence, surprise, or excusable neglect pursuant to the fact that an adverse

QUESTION PRESENTED – Continued

party prepared the Order and mailed it to the Court for his signature? Do these actions fall under Rules of Civil Procedure Rule 1.540(b)(1) and Rule 1.540(b)(3). . . misrepresentation, or other misconduct of an adverse party?

3. Is Alan Clayton Espy, Esquire by preparing Order(s) and mailing it to the Court for judge(s) signature(s) containing misrepresentation or other misconduct, being an adverse party, chargeable with abuses of judicial power?

4. Is Lowry Jock Miller, Esquire by Ex Parte proceedings and by preparing Order for Judge William Shore Robertson's signature with alleged fraud, misrepresentation, or other misconduct under guidelines of conflict of interest, being an adverse party, chargeable with abuses of judicial power?

RULE 20.3 LISTING

Petitioner submits the following list of interested persons and a complete list of Respondent's affiliates and parent corporations not previously presented to the Supreme Court of the United States as a continuation:

Administrative File

American States (as THE Carrier)

Birch, Honorable Judge Stanley F. (U.S. COA 11th Circuit)

Bryan, Jr., Honorable Judge Ben L. (19th Judicial Circuit)

Buchmann, Eileen (Respondent)

Circuit Court of the 19th Judicial Circuit in and for Martin County, Florida

Circuit Court of Fauquier County in Virginia

Commonwealth Of Virginia Fauquier County Office of the Commonwealth's Attorney

Dill, Daniel F., Esquire (Counsel for Respondent)

District Court of Appeal Fourth District of Florida

Espy, Alan Clayton, Esquire (Counsel for Respondent)

Farmer, Chief Honorable Judge Gary M. (COA 4th District)

Farmer, Honorable Judge C. J. (COA 4th District)

First Floridian Insurance Company (as THE Carrier)

Gunther, Honorable Judge J. (COA 4th District)

RULE 20.3 LISTING – Continued

Hunter, Carlin T. (as Administrator of the Estate of Dale Bruce Holbrook, et al.)

Krathen, Honorable Judge David H. (COA 4th District)

Marcus, Honorable Judge Stanley (U.S. COA 11th Circuit)

Metzger, Elizabeth A., Esquire (Counsel for Respondent)

Miller, Lowry Jock, Esquire (Counsel for Respondent)

Miller, Miller, Kearney & Geschickter, LLP (Law Office for Respondent)

Mortell, III, Edwin E., Esquire (Counsel for Respondent)

Office of the State Attorney 19th Judicial Circuit of Florida

Oswald, Jon L. (as interested owner and/or President)

Oswald, Jon L. (as registered agent)

Other (any state clerk of court/court administrator – Stuart, Martin County, Florida)

Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A. (law office for Respondent)

Potts, Jr., H. Russell (Senator of Fauquier County)

Pressure Cleaning Services, Inc., a Florida Corp.

Roby, Honorable Judge William L. (19th Judicial Circuit)

Rogers, Coleman, Pendas, Knapp & Dill, P.A. (law office for Respondent)

RULE 20.3 LISTING – Continued

SAFECO Property & Casualty Insurance Companies (as THE Carrier)

Second Housing Corp. Et Al. or

Sugar Pines Homeowner's Association and/or

Sugar Pines, Inc., all Florida Corporations (Respondent(s))

Seropian, Diran V., Esquire (Counsel for Respondent)

State Farm Fire and Casualty Company (as THE Carrier)

United States Court of Appeals for the Eleventh Circuit

United States Department of Justice – Civil Division – Washington, D.C.

United States District Court Southern District of Florida

United States Equal Employment Opportunity Commission – Miami

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND/OR PROHIBITION

Diane L. Holbrook respectfully petitions for an extraordinary writ of mandamus and/or prohibition to review the judgment and opinion of the Supreme Court of the United States entered in this proceeding on December 1, 2003 Appendix 71 and Appendix 72, as well as, Appendix 73 and Appendix 74. This is supported by *United States v. Ohio Power Co.*, 353 U.S. 98 (1957) for common law by introducing the District Court Of Appeal of the State of Florida Fourth District on December 10, 2003, Appendix 7 and January 23, 2004, Appendix 1.

OPINIONS BELOW

The opinion to the District Court of Appeal of the State of Florida Fourth District Appendix 1 and Appendix 7 that gives rise to this petition presenting the same question(s) that this present case has. *United States v. Ohio Power Co.*, 353 U.S. 98; . . . Orders of denying were vacated and decided so that the present case might be disposed of consistently with two other cases then pending and presenting the same question(s). Supreme Court of the United States Cases No. 01-31 and No. 02-1613.

JURISDICTION

The Supreme Court of the United States entered its Order of Denial on December 1, 2003 Appendix 71. Pursuant to Supreme Court Rule 13.1, this petition has been filed within 90 days of the Denial of Rehearing. The District Court of Appeal of the State of Florida Fourth

District presents the same question. Furthermore, there is a conflict of interest at the Florida Supreme Court level because the presiding judge has been the defense counsel for the Supreme Court of the United States Case No. 01-31.

The jurisdiction of this Court is authorized by 28 U.S.C. § 1651(a). The writ will be in aid of support of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other Court.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED IN THIS CASE

Pursuant to Federal Constitution of the United States Constitution, Amendment XIV Section 1, 28 U.S.C. § 1332 Part IV(a) and Part IV(b), 28 U.S.C. § 1337, and Case *United States v. Ohio Power Co.*, 353 U.S. 98 (1957) for common law Order denying Certiorari(s) and Rehearing(s) vacated and Decided.

STATEMENT OF THE CASE

On January 23, 2004, the District Court of Appeal of the State of Florida Fourth District denied Petitioner's Rehearing and denied Petitioner's Rehearing En Banc. See Appendix 1 thru 28. Alan Clayton Espy, Esquire has been writing the Orders for Judge William L. Roby to sign. See Appendix 29 thru 35.

On January 15, 2003, the Petitioner filed a Notice of Appeal. See Appendix 36 thru 67 involving Rules of Civil

Procedure Rule 1.540(a), Rule 1.500(a), Rule 1.500(e), and Rule 1.540(b)(1). Please notice that the Trial Schedule – Civil Division sheet was Faxed to Maggie who is Judge William L. Roby's Assistant stating that cases specially set herein for dates subsequent to December 2 are not required to attend the December 2 Docket Call. Also noting that on December 16, 2002 (the beginning of my 3 days Jury Trial dates) I, as Plaintiff, was at Court Room A . . . for Jury Trial and did not see any of the Defendants nor their Counsels on that day. . . . I have witnesses before January 15, 2003. On January 15, 2003 I filed a Notice of Appeal. If this case goes to the Florida Supreme Court, I would immediately Recuse Judge Raoul Cantero, III, because he was the Nationwide Insurance Company Defendant's Counselor. Before Petitioner filed the Rehearing, after November 12, 2003 Order was signed, Petitioner filed with the Circuit Court of the 19th Judicial Circuit Appendix 68 thru Appendix 70 for a window of correction to the November 12, 2003 Order before the deadline for filing the Rehearing into the District Court of Appeal of the State of Florida Fourth District.

Pertaining to Allied Van Lines, Inc., a Foreign Corporation, See appendix 75 thru 88 for additional regards to be related to Case No. 02-1613. Judge K. Michael Moore issued an Order Requiring Response of which both parties responded to within time allowed. However, United States Magistrate Judge obviously ignored the Notice Of Refusal To Proceed Before A United States Magistrate Judge dated signed August 8, 2001. Keep in mind that the Order Requiring Response was signed by a United States District Judge K. Michael Moore and not any Magistrate Judge of parallel authority.

Pertaining to Nationwide Mutual Insurance Company, a Foreign Corporation, See Appendix 89 thru 109 for additional regards to be related to Case No. 01-31 for the Rehearing portion of better explanation of Jurisdiction issues. Also, notice that Supreme Court of the United States filing of "Petition For A Writ Of Certiorari" was received hand delivered on June 15, 2001 being AFTER June 6, 2001 Order from Judge Frank J. Lynch, Jr. involving this issue. Totally different case, Allied Van Lines, same Judge Frank J. Lynch, Jr. DENIED Clerical Court Mistakes to be Corrected AGAIN on February 27, 2002.

Pertaining to Case No. 01-31 see Appendix 110 thru 117. Also, see Appendix 118 thru 129 involving approximate $5,300.00 losses on Disciplinary-Resigned Attorney(s) who are in business.

Pertaining to Cases CL92-306, CL93-350 and CL96-7 involving conflict of interest see Appendix 143 thru 177.

Pertaining to Case No. 01-31 see Appendix 130 thru 137.

Pertaining to Magistrate Judge Frank Lynch, Jr. (in part) see Appendix 138 thru 142.

Remainder Appendix 178 thru 186 are more issues that are self explained throughout. To this date, I have not gotten my restitution that was Ordered to do so and neither addressed letters have been answered. Consumer Services of Florida closing their file is reasons why cases end up in Court!

REASONS FOR GRANTING THE WRIT

County Court versus Federal Court jurisdiction issues within Petition for Writ of Certiorari/Petition for Rehearing, Case No. 02-1613.

Because of Alan Clayton Espy, Esquire's Motion For Entry Of Order Of Final Dismissal with Prejudice appears to follow the guidelines of involving Rules of Civil Procedure Rule 1.540(b)(3). See Appendix 14, Appendix 29 thru 32.

Lowry Jock Miller, Esquire representing Nationwide Insurance Company on retainer went against Nationwide Insurance Company by representing Lisa Holbrook, as his client, as plaintiff. Conflict of interest, which explains why he received $25,000 when he lost the case and owed for sanctions.

CONCLUSION

For the foregoing reasons, Petitioner Diane L. Holbrook respectfully requestfully requests that the petition for an extraordinary writ of mandamus/prohibition should be granted.

Respectfully submitted,

DIANE L. HOLBROOK
Petitioner
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone (772) 545-9793

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

January 23, 2004

CASE NO.: 4D03-187
L.T. No.: 01-937 CA

DIANE L. HOLBROOK v. EILEEN BUCHMANN, ET AL.
Appellant/Petitioner(s), Appellee/Respondent(s).

BY ORDER OF THE COURT:

ORDERED that appellant's motion filed December 18, 2003, for rehearing is hereby denied; further,

ORDERED that appellant's motion filed December 23, 2003, for rehearing en banc is hereby denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Diane L. Holbrook
Diran V. Seropian
Edwin E. Mortell, III
Alan Clayton Espy
Elizabeth A. Metzger
Daniel F. Dill

cd

/s/ Marilyn Beuttenmuller [SEAL]
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal

MANDATE

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT

This cause having been brought to the Court by appeal, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause as may be in accordance with the opinion of this Court, and with the rules of procedure and laws of the State of Florida.

WITNESS the Honorable GARY M. FARMER, Chief Judge of the District Court of Appeal of the State of Florida, Fourth District, and seal of the said Court at West Palm Beach, Florida on this day.

DATE:	February 13, 2004
CASE NO.:	4D03-187
COUNTY OF ORIGIN:	Martin
T.C. CASE NO.:	01-937 CA
STYLE:	DIANE L. HOLBROOK V. EILEEN BUCHMANN, ET AL.

/s/ Marilyn Beuttenmuller
[SEAL] **MARILYN BEUTTENMULLER,**
Clerk Fourth District Court of Appeal

ORIGINAL TO: Marsha Ewing, Clerk

cc:

Diane L. Holbrook	Elizabeth A. Metzger
Alan Clayton Espy	Daniel F. Dill

cs

IN THE DISTRICT COURT OF APPEAL FOURTH DISTRICT OF FLORIDA
1525 Palm Beach Lakes Boulevard/P. O. Box 3315
West Palm Beach, Florida 33401/West Palm Beach, Florida 33402-3315

CASE NO.: 4D03-187
L. T. No.: 01-937 CA

DIANE L. HOLBROOK,

Appellant,

vs.

EILEEN BUCHMANN,

SERVE ALSO: First Floridian Insurance Company Claims Department (as THE Carrier);

PRESSURE CLEANING SERVICES, INC., a Florida corporation,

SERVE ALSO: SAFECO Property & Casualty Insurance Companies American States (as THE Carrier);

SECOND HOUSING CORPORATION ET AL. *or* SUGAR PINES HOMEOWNER'S ASSOCIATION and/or SUGAR PINES, INC., all Florida corporations,

SERVE ALSO: JON L. OSWALD as REGISTERED AGENT. Jon L. Oswald as interested owner and/or President of Second Housing Corporation Et Al. or Sugar Pines Homeowner's Association or Sugar Pines, Inc.,

SERVE ALSO: State Farm Fire and Casualty Company Claims Department (as THE Carrier),

Appellees.

_____/

MOTION FOR REHEARING EN BANC

(Filed Dec. 23, 2003)

Plaintiff, Diane L. Holbrook, moves the Honorable Court for Rehearing En Banc being timely filed pursuant to Rules Of Appellate Procedure Rule 9.330 within 15 days of an order attached. Pursuant to Florida Rules Of Appellate Procedure Rule 9.331(a) Determination Of Causes In A District Court Of Appeal En Banc questioning whether the case is of such exceptional importance or that such consideration is necessary to maintain uniformity in the Court's decision. This outcome could affect different outcomes on Case # 00-026 CA, Case # 98-969 CA, Case # 99-615 CA, Case # 00-751 CA, Case # 01-001 CA, Case # 01-148 CA, Case # 00-733 CA, Case # 01-836 CA, Case # 02-102 CA, Case # 02-174 CA, Case # 01-565 CA, Case # 99-230 CA, Case # 00-773 CA, Case # 02-171 CA, Case # 00-206 CA, Case # 01-379 CA, Case # 01-703 CA, Case # 01-893 CA, Case # 01-351 CA, Case # 98-939 CA, Case # 00-896 CA and # 01-499 CA before out of Court settlements and after December 2nd Docket Call, Case # 02-112 CA, Case # 00-830 CA all being cases scheduled for trials from December 2nd, 2002 thru December, 24, 2002 because Case No. 01-937 CA would set a new first impression case resulting into a Common Law affect simply because of Rules of Civil Procedure Rule 1.540(b)(1). Otherwise, Judicial Administration Rules Rule 2.071(a) Use of Communication Equipment.

WHEREFORE, the Plaintiff, Diane L. Holbrook, respectfully requests the Honorable Court to Grant Rehearing En Banc and decide upon the attached Motion For Rehearing, as well as, Affidavit of Diane L. Holbrook In Support Of Final Order Of Final Judgment In Favor Of The Plaintiff With Prejudice and to Grant Final Judgment by vacating Final Order of Dismissal with Prejudice and vacating Order of Second Housing Corporation (ET AL.)'s Summary Judgment as grounds shown.

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished to Alan Clayton Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, Florida 33410; Daniel F. Dill, Esquire, ROGERS, COLEMAN, PENDAS, KNAPP & DILL, P.A., Post Office Box 3427, Orlando, Florida 32802-3427; Elizabeth A. Metzger, Esquire/Edwin E. Mortell, III, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., 301 E. Ocean Boulevard, Suite 200, Stuart, Florida 34994; Diran V. Seropian, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., Post Office Drawer 15700, West Palm Beach, Florida 33406 by certificate of mailing receipt of by United States mail, on this 23rd day of December, 2003.

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FOURTH DISTRICT JULY TERM 2003

DIANE L. HOLBROOK,

Appellant,

v.

EILEEN BUCHMANN, PRESSURE CLEANING SERVICES, INC., a Florida corporation, and SECOND HOUSING CORPORATION, a Florida corporation,

Appellees.

CASE NO. 4D03-187

Decision filed December 10, 2003

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Ben L. Bryan and William L. Roby, Judges; L.T. Case No. 01-937 CA.

Diane L. Holbrook, Hobe Sound, pro se.

Daniel F. Dill of Rogers, Coleman, Pendas, Knapp & Dill, P.A., Orlando, for appellee Eileen Buchmann.

Alan C. Espy, Palm Beach Gardens, for appellee Pressure Cleaning Services, Inc.

Elizabeth A. Metzger of Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, Stuart, for appellee Second Housing Corporation.

PER CURIAM.

AFFIRMED.

FARMER, C.J., GUNTHER, J., and KRATHEN, DAVID H., Associate Judge, concur.

NOT FINAL UNTIL DISPOSITION OF ANY TIMELY FILED MOTION FOR REHEARING.

IN THE DISTRICT COURT OF APPEAL FOURTH DISTRICT OF FLORIDA
1525 Palm Beach Lakes Boulevard/P. O. Box 3315
West Palm Beach, Florida 33401/West Palm Beach, Florida 33402-3315

CASE NO.: 4D03-187
L. T. No.: 01-937 CA

DIANE L. HOLBROOK,

Appellant,

vs.

EILEEN BUCHMANN,

SERVE ALSO: First Floridian Insurance Company Claims Department (as THE Carrier);

PRESSURE CLEANING SERVICES, INC., a Florida corporation,

SERVE ALSO: SAFECO Property & Casualty Insurance Companies American States (as THE Carrier);

SECOND HOUSING CORPORATION ET AL. *or* SUGAR PINES HOMEOWNER'S ASSOCIATION and/or SUGAR PINES, INC., all Florida corporations,

SERVE ALSO: JON L. OSWALD as REGISTERED AGENT. Jon L. Oswald as interested owner and/or President of Second Housing Corporation Et Al. or Sugar Pines Homeowner's Association or Sugar Pines, Inc.,

SERVE ALSO: State Farm Fire and Casualty Company Claims Department (as THE Carrier),

Appellees.

_____/

MOTION FOR REHEARING

Plaintiff, Diane L. Holbrook, moves the Honorable Court for Reversal of Order of Final Order of Dismissal with Prejudice and Reversal of Order of Second Housing Corporation (ET AL.)'s Summary Judgment. Plaintiff, Diane L. Holbrook, moves the Honorable Court to Grant a Final Order of Final Judgment in full favor of the Plaintiff with Prejudice. As grounds thereof, the Plaintiff would show as follows:

1. See (R.Vol.I,pg.1) showing statue of limitation was met of Complaint on or about October 29, 2001 and all summons were served and received as well as filed at the Court. See (R.Vol.I,pg.4-5) and (R.Vol.I,pg.192-197) Registered Agent is Jon L. Oswald listing on the Insurance Blank Endorsement as follows: Second Housing Corporation & Sugar Pines Company A FL Corp (etc.) as one entity by using & (and). Regarding Rules of Civil Procedure Rule 1.540(a) Clerical Mistakes pertaining to Defaults as follows:

(a) August 8, 2002 of (R.Vol.I,pg.85-89) Plaintiff's Opposition to Defendant(s) Motion for Summary Judgment, along with Request To Produce For Inspection And Copying. To this date, Defendant(s) had not made arrangements with Plaintiff to inspect and copy.

(b) August 20, 2002 of (R.Vol.I,pg.108) verbal Order by the Honorable Judge Ben L. Bryan, Jr. states "will produce minutes for Plaintiff's request." To this date, Plaintiff has not received any documents requested to produce. The Defendant(s) has Defaulted.

(c) August 20, 2002 of (R.Vol.I,pg.314-315) Order Granted included break down list of THE one entity and in addition states interest from the date of occurrence on all medical expenses, as well as reimbursements, and also punitive damages against the insurance(s) from policy holder(s). Etc., results (R.Vol.I,pg.118). Amended Complaint was timely filed (R.Vol.I,pg.118) dated August 27, 2002. Amended Complaint was done before September 4, 2002 Hearing and unanswered to this date by Second Housing Corporation ET AL. etc..

(d) Under Rules of Civil Procedure Rule 1.540(b)(1), Second Housing Corporation (ET AL.)'s Summary Judgment (R.Vol.I,pg.173) is a mistake supporting for a Reversal because September 4th, 2002 is subsequent date to August 8th, 2002, August 20th, 2002 and August 27th, 2002. The Defendant(s) has Defaulted to this date.

2. See (R.Vol.II,pg.341-350) for December 2nd, 2002. See (R.Vol.I,pg.269) whereas Honorable Judge William L. Roby noting: "Judge called her @ 772-545-9793." See attached Judicial Administration Rules Rule 2.071(a) Use of Communication Equipment. With this Motion For Rehearing filing is an Affidavit of Diane L. Holbrook in Support of Final Order of Final Judgment in Favor of the Plaintiff with Prejudice with attachment of (R.Vol.II,pg.341 and 349 dated September 20th, 2002 TRIAL SCHEDULE – CIVIL DIVISION quoting "All counsel . . . are to be present on the day their case is scheduled, whether it be the #1 case or a backup case." On next paragraph quoting "Cases specially

set herein for dates subsequent to December 2 are not required to attend the December 2 Docket Call." Under Rules of Civil Procedure Rule 1.540(b)(1) "Judge enters dismissal for FTA" is a mistake supporting for a Reversal because December 16th, 17th, and 18th, 2002 JURY TRIAL Dates are dates subsequent to December 2nd Docket Call.

3. Alan Clayton Espy, Esquire's Order should have read Final Judgment For the Plaintiff with Prejudice due to Defendants failure to attend Jury Trial Dates because later on December 18th, 2002 is subsequent date to December 16th, 17th, and 18th, 2002 whereas Plaintiff was present at Court on the days their case was scheduled for Jury Trial and did not see any of the Defendants or their Counselors. Final Order of Dismissal with Prejudice is a mistake supporting for a Reversal because TRIAL SCHEDULE – CIVIL DIVISION dated September 20th, 2002 comes before December 2nd, 2002 and Plaintiff was present for Jury Trial starting December 16th, 2002 before scheduled time of 9:00a.m..

WHEREFORE, the Plaintiff, Diane L. Holbrook, respectfully requests the Court to enter an Order Vacating Final Order of Dismissal with Prejudice and Vacating Order of Second Housing Corporation (ET AL.)'s Summary Judgment and Order Granting Final Order of Final Judgment in Full Favor for Plaintiff with Prejudice for the reasons set forth above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished to Alan Clayton Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens,

Florida 33410; Daniel F. Dill, Esquire, ROGERS, COLEMAN, PENDAS, KNAPP & DILL, P.A., Post Office Box 3427, Orlando, Florida 32802-3427; Elizabeth A. Metzger, Esquire/Edwin E. Mortell, III, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., 301 E. Ocean Boulevard, Suite 200, Stuart, Florida 34994; Diran V. Seropian, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., Post Office Drawer 15700, West Palm Beach, Florida 33406 by certificate of mailing receipt of by United States mail, on this 23rd day of December, 2003.

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN COUNTY FLORIDA

CASE NO: 01-937 CA

DIANE L. HOLBROOK,
Plaintiff,

v.

EILEEN BUCHMANN, et al.,
Defendants. /

FINAL ORDER OF DISMISSAL WITH PREJUDICE

This matter was previously dismissed by the Court on December 18th, 2002. The order stated that it was without prejudice but since the statute of limitations had run, the Plaintiff could not refile this case.

An appeal was subsequently taken of the court's order of December 18th, 2002 which is presently pending before the Fourth District Court of Appeals. In order to proceed with the appeal, a final order is needed for appellate purposes. Accordingly, it is hereby

ORDERED AND ADJUDGED that this matter is dismissed with prejudice for the reasons previously set forth in this court's order of December 18th, 2002 as well as for the reasons set forth herein. The Court reserves jurisdiction to tax attorney's fees and costs upon proper motion.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida this ___ day of November, 2003.

/s/ Judge William L. Roby
CIRCUIT COURT JUDGE
Nov 12 2003

Copies furnished to:

Diane Holbrook, PO Box 1512, Hobe Sound, FL 33455
Daniel F. Dill, Esquire, Post Office Box 3427, Orlando, FL 32802-3427
Alan C. Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, FL 33410
Dirian V. Seropian, Esquire, Post Office Drawer 15700, West Palm Beach, FL 33406

RULES OF CIVIL PROCEDURE

Rule 1.530

(f) Order Granting to Specify Grounds. All orders granting a new trial shall specify the specific grounds therefor. If such an order is appealed and does not state the specific grounds, the appellate court shall relinquish its jurisdiction to the trial court for entry of an order specifying the grounds for granting the new trial.

(g) Motion to Alter or Amend a Judgment. A motion to alter or amend the judgment shall be served not later than 10 days after entry of the judgment, except that this rule does not affect the remedies in rule 1.540(b).

Amended June 19, 1968, effective Oct. 1, 1968 (211 So.2d 206); Sept. 13, 1984, effective Jan. 1, 1985 (458 So.2d 245). Amended July 16, 1992, effective Jan. 1, 1993 (604 So.2d 1110).

Committee Notes

Rule 1.540. Relief from Judgment, Decrees, or Orders

(a) Clerical Mistakes. Clerical mistakes in judgments, decrees, or other parts of the record and errors

therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal such mistakes may be so corrected before the record on appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) that the judgment or decree is void; or (5) that the judgment or decree has been

* * *

JUDICIAL ADMINISTRATION RULES

Rule 2.071. Use of Communication Equipment

(a) Definition. Communication equipment means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to

each other, provided that all conversation of all parties is audible to all persons present.

(b) Use by all Parties. A county or circuit court

* * *

AMERICAN CREDIT BUREAU, INC.

1200 N. Federal Highway, Suite 200
Boca Raton, FL 33432

Friday, November 21, 2003

Diane Holbrook
PO Box 1512
Hobe Sound, FL 33475

Account #: 117258
Principle: $131.22
Collection Fee: $15.00
Total: $146.22

Client: Craig Lichtblau M.D.
Debtor: Diane Holbrook

Since you have refused to pay the above balance due, this letter will serve as formal notice that your bad debt has been reported to the credit bureaus – Equifax, Experian and Trans Union. This credit blemish will, in many cases, prevent credit grantors from extending you credit. Be advised, this credit blemish may affect future plans for mortgages, auto loans, credit cards, personal loans, etc. for a period of seven (7) years.

This obligation will not be reported as paid-in-full until satisfactory settlement has been made to the above client.

Be advised, this is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

To receive proper credit, send payment to:

Craig Lichtblau M.D.
550 Northlake Blvd.
North Palm Beach, FL 33408
(561) 842-3694

PO Box 4545
Boynton Beach, Florida 33424

RETURN SERVICE REQUESTED

Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

October 15, 2003

American Credit Bureau, Inc.
1200 N. Federal Highway, Suite 200
Boca Raton, Florida 33432

RE: Account #: 117258
Principal: $131.22
Collection Fee: $15.00
Total Due: $146.22
Client: Craig Lichtblau M.D.
Debtor: First Floridian Insurance Company
Claims Department SAFECO Property & Casualty Insurance Companies aka American States
State Farm Fire and Casualty Company

Dear To Whom Concern:

Please refer to the attachment for the Debtors addresses to mail these bills to directly, as the above Debtors are listed in correction to having my name listed. The unpaid balance should be reported against First Floridian Insurance Company, SAFECO Property & Casualty Insurance Companies aka American States, and State Farm Fire and Casualty Company to the three national credit bureaus – Equifax, Experian, and Trans Union. These Defendants of Eileen Buchmann, Pressure Cleaning Services, Inc., Second Housing Corporation ET AL. or Sugar Pines Homeowner's Association and/or Sugar Pines, Inc. have the above listed insurance companies as their Carriers. This case is currently in the District Court of Appeal Fourth District of Florida Case No. 4D03-187 located at 1525 Palm Beach Lakes Blvd., West Palm Beach, Florida 33401 and is open. The national credit bureau blemishes the Defendants and the records of not taking responsibility by the insurance companies to pay their Defendants debt (as THE Carrier) should not affect my name.

Sincerely Yours,

/s/ Diane L. Holbrook
Diane L. Holbrook

U.S. Postal Service CERTIFICATE OF MAILING

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CASE NO.: 01-937CA

DIANE L. HOLBROOK,
Plaintiff,

vs.

EILEEN BUCHMANN,
Defendants

Court of Appeals
Fourth District of Florida
Case No. 4D03-187

SERVE ALSO:
First Floridian Insurance Company
Claims Department (as THE Carrier)
1000 Legion Place and/or P. O. Box 30180
P. O. Box 4962 Tampa, FL 33630-3180
Orlando, FL 32802-4962 Attn: Mr. Randy Greer
Insurance Adjuster Tina M. Boskovich

PRESSURE CLEANING SERVICES, INC.,
a Florida corporation, Defendants

SERVE ALSO:
SAFECO Property & Casualty Insurance Companies
American States (as THE Carrier)
Maitland Claims Office Mailing address:
2201 Lucien Way Suite 300 14286-19 Beach Blvd. #343
Maitland, FL 32250 Jacksonville, FL 32250
Attn: Stephen M. Ruling

SECOND HOUSING CORPORATION ET AL. or
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations, Defendants.

SERVE ALSO:

Jon L. Oswald as interested owner and/or President of Second Housing Corporation et al. or Sugar Pines Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO:

State Farm Fire and Casualty Company
Claims Department (as THE Carrier)
1811 South 25th Street
Fort Pierce, FL 34947-4783
Insurance Adjuster Mr. Sam Cartwright /

AMERICAN CREDIT BUREAU, INC.

1200 N. Federal Highway, Suite 200
Boca Raton, FL 33432

Monday, October 06, 2003

Diane Holbrook
PO Box 1512
Hobe Sound, FL 33475

Account #: 117258
Principle: $131.22
Collection Fee: $15.00
Total Due: $146.22

Client: Craig Lichtblau M.D.
Debtor: Diane Holbrook

Be advised the above referenced client is a member of American Credit Bureau and has turned your account over to our office with instructions to report your unpaid balance to the three national credit bureaus – Equifax, Experian, and Trans Union.

This bad debt is scheduled to be recorded on your permanent credit file during the next system update. This credit

blemish will, in many cases, prevent credit grantors from extending you credit. Be advised, this credit blemish may affect future plans for mortgages, auto loans, credit cards, personal loans, etc. for a period of seven (7) years.

To prevent this blemish from appearing on your credit file, the above referenced client must notify our office prior to the next system update that satisfactory payment or arrangements have been made.

Be advised, this is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

To receive proper credit, send payment to:

Craig Lichtblau M.D.
550 Northlake Blvd.
North Palm Beach, FL 33408
(561) 842-3694

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such judgement or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT OF FLORIDA
1525 Palm Beach Lakes Boulevard/P.O. Box 3315
West Palm Beach, Florida 33401/West Palm Beach, Florida 33402-3315

CASE NO.: 4D03-187
L. T. No.: 01-937 CA

DIANE L. HOLBROOK,

Appellant,

vs.

EILEEN BUCHMANN,

SERVE ALSO:
First Floridian Insurance Company
Claims Department (as THE Carrier);

PRESSURE CLEANING SERVICES, INC.,
a Florida corporation,

SERVE ALSO:
SAFECO Property & Casualty Insurance
Companies American States (as THE Carrier);

SECOND HOUSING CORPORATION ET AL. *or*
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations,

SERVE ALSO:
JON L. OSWALD as REGISTERED AGENT.
Jon L. Oswald as interested owner and/or
President of Second Housing Corporation Et Al.
or Sugar Pines Homeowner's Association or
Sugar Pines, Inc.,

SERVE ALSO:
State Farm Fire and Casualty Company Claims
Department (as THE Carrier),

Appellees.

AFFIDAVIT OF DIANE L. HOLBROOK
IN SUPPORT OF FINAL ORDER OF
FINAL JUDGMENT IN FAVOR OF THE
PLAINTIFF WITH PREJUDICE

UPON sworn statement, deposes and states:

See attachment TRIAL SCHEDULE – CIVIL DIVISION page 1 and page 9:

1. On page 9 of the TRIAL SCHEDULE – CIVIL DIVISION for Monday, December 16, 2002*, cases were settled out of Court cases #1 on docket case no. 00-896 CA Colebrook vs State Farm ET AL., #2 on docket case no. 01-499 CA Braun vs Wellcraft Marine Corp ET AL., and #3 on docket case no. 01-684 CA Bailey vs Craig ET AL..

2. Case scheduled for JURY Trial on Monday, December 16, 2002 listed case #4 on docket case no. 01-937 CA Holbrook vs Buchmann ET AL. for 3 days JURY Trial at 9:00a.m..

3. Plaintiff, Diane L. Holbrook, was at Court on December 16th, 2002 approximately 8:50a.m. for being present for JURY TRIAL as scheduled date to do so. See page 9 of the TRIAL SCHEDULE – CIVIL DIVISION attached.

4. One of the witnesses of my present appearance at Court on December 16th, 2002 before 9:00a.m. deadline being H. Randal Brennan from Law Offices of Hendrix & Brennan from 1443 Twentieth Street, Suite F, Vero Beach, Florida 32961-0520. Telephone 778-3777. Fax 778-3835.

5. Plaintiff, Diane L. Holbrook, was at Court on December 17th, 2002 approximately 8:20a.m. for being present for JURY TRIAL as scheduled date to do so. There

were witnesses of my present appearance at Court on December 17th, 2002 before 9:00a.m.

6. Plaintiff, Diane L. Holbrook, was at Court on December 18th, 2002.

7. Plaintiff, Diane L. Holbrook, did not see any of the Defendants or their Counselors at Court on the days their case was scheduled for JURY TRIAL being December 16th, 17th, 18th 2002 before 9:00a.m.

FOR THE ABOVE SWORN reasonings, Plaintiff, Diane L. Holbrook is entitled to a Final Order of Final Judgment in full favor of the Plaintiff, Diane L. Holbrook with Prejudice.

FURTHER THE DEPONENT SIGNS AND SERVICE DEFENDANTS BY MAIL.

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished to Alan Clayton Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, Florida 33410; Daniel F. Dill, Esquire, ROGERS, COLEMAN, PENDAS, KNAPP & DILL, P.A., Post Office Box 3427, Orlando, Florida 32802-3427; Elizabeth A. Metzger, Esquire/Edwin E. Mortell, III, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., 301 E. Ocean Boulevard, Suite 200, Stuart, Florida 34994; Diran V. Seropian, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., Post Office Drawer 15700,

West Palm Beach, Florida 33406 by certificate of mailing receipt of United States mail, on this 23rd day of December, 2003.

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT MARTIN COUNTY, FLORIDA

Ben L. Bryan Jr., Circuit Judge *9/20/02*
100 East Ocean Blvd., Suite 263
Stuart, Florida 34994
Trial Period: October 14, 2002 – December 30, 2002)
(Cases scheduled from September 19, 2002

TRIAL SCHEDULE – CIVIL DIVISION

PLACE: Courtroom "A", 2nd Floor
Martin County Courthouse
100 East Ocean Boulevard
Stuart, Florida 34994

ALL COUNSEL (AND ANYONE NEEDED FOR JURY SELECTION) **ARE TO BE PRESENT ON THE DAY THEIR CASE IS SCHEDULED, WHETHER IT BE THE #1 CASE OR A BACKUP CASE**. WITNESSES FOR BACKUP CASES SHOULD BE AVAILABLE AT 1:30 P.M. ON THAT DATE.

A JURY CASE NOT TRIED ON ITS SCHEDULED DATE IS RESCHEDULED FOR THE DOCKET CALL

ON *DECEMBER 2, 2002 AT 9:00 A.M. BEFORE JUDGE WILLIAM ROBY*. COUNSEL WILL BE PRESENT WITH CALENDARS. A NONJURY CASE NOT TRIED ON ITS SCHEDULED DATE WILL BE NOTIFIED AS TO THE NEXT DOCKET CALL DATE. **CASES SPECIALLY SET HEREIN FOR DATES SUBSEQUENT TO DECEMBER 2 ARE NOT REQUIRED TO ATTEND THE DECEMBER 2 DOCKET CALL.**

Thursday, September 19, 2002

[SETTLED]

Monday, September 23, 2002*

9:00 a.m.:

01-796 CA	**Hanner vs Francois and Wright** (2 days) **JURY**	MORTELL, M. FRANCOIS, pro se WRIGHT, pro se [YOUNG, W.]

Monday, December 16, 2002*

[SETTLED]

[SETTLED]

[SETTLED]

9:00 a.m., #4 on docket:

01-937 CA	**Holbrook vs. Buchmann et al** (3 days) **JURY**	HOLBROOK, pro se DILL/ ESPY MORTELL, E.

---

* SEE INSTRUCTIONS ON PAGE 1

Tuesday, December 17, 2002

1:30 p.m.:

02-112 CA	**Showcase Designer Homes vs Wagner** (1½ days) **NONJURY**	STEGER COPELAND

Wednesday, December 18, 2002

9:00 a.m.:

00-830 CA	**Mile High Air vs Aircraft Trading** (3-4 days) **NONJURY**	BARLOW FREEMAN

LAW OFFICES OF
ALAN C. ESPY, P.A.
3300 PGA BOULEVARD
SUITE 630
PALM BEACH GARDENS, FLORIDA 33410
E-MAIL: espy@flite.net

ALAN C. ESPY*
*FLORIDA BAR BOARD CERTIFIED
CIVIL TRIAL LAWYER

JAMES C. PAINE, JR.
OF COUNSEL

TELEPHONE (561) 627-4775
TELEFAX (561) 627-4802

November 6, 2003

The Honorable William L. Roby
Martin County Courthouse
100 SE Ocean Blvd, Suite 263
Stuart, FL 34994

Re: Holbrook v. Buchmann, et al
Case No. 01-937 CA

Dear Judge Roby:

You previously entered an order of dismissal in this case for failure of the plaintiff to attend the docket call. A copy of that order is enclosed.

The plaintiff took an appeal of that order to the Fourth District Court of Appeals.

However, because the order of December 18th, 2002 was "without prejudice" the appellate court has ordered us to get a final order for appellate purposes.

The statute of limitations in this claim had expired by the time your order of December 18th, 2002 was entered so for all intents and purposes, that order was with prejudice.

I am enclosing herewith a copy of the order received from the Fourth District Court of Appeals instructed me to obtain an appropriate final order from you. A proposed final order is enclosed. If this meets with your approval, it would be appreciated if you would please sign and forward copies of the order in the enclosed stamped, addressed envelopes.

Respectfully,
/s/ Alan C. Espy
ALAN C. ESPY

ACE/drl

cc: Diane Holbrook
Daniel F. Dill, Esquire
Diran Seropian, Esquire

IN THE CIRCUIT COURT OF
THE NINETEENTH JUDICIAL
CIRCUIT IN AND FOR
MARTIN COUNTY FLORIDA
CASE NO: 01-937 CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, et al.,

Defendants. /

MOTION FOR ENTRY OF ORDER OF FINAL DISMISSAL WITH PREJUDICE

Defendant, Pressure Cleaning Services, Inc., by and through its undersigned attorneys, moves the court for entry of an order of final dismissal with prejudice. As grounds therefor, the Defendant would show as follows:

1. On December 18th, 2002 this court entered a final order of dismissal for failure of the plaintiff to attend the docket call.

2. The Plaintiff subsequently took an appeal.

3. The final order of dismissal is without prejudice.

4. However, the statute of limitations had expired at the time the final order of dismissal was entered, so in effect it was with prejudice.

5. The matter is currently on appeal and the appellate court has entered an order requesting an appropriate "final order" for appeal purposes.

6. Obviously, no prejudice would arise to any party if the court were to enter an order of final dismissal with prejudice since it would allow the parties to proceed with their appeal and have the appeal determined on the merits at this time.

WHEREFORE, the Defendant, Pressure Cleaning Services, Inc., respectfully requests the court to enter an order of final dismissal with prejudice for the reasons set forth above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished, by mail, to **Diane Holbrook PO Box 1512, Hobe Sound, FL 33455**; Daniel F. Dill, Esquire, Rogers, Dowling, Fleming & Coleman, PA, Post Office Box 3427, Orlando FL 32802-3427 and Edwin F. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, 301 East Ocean Boulevard, Suite 200, Stuart, FL 34994 this 6 day of November, 2003.

/s/ Alan C. Espy
ALAN C. ESPY
Attorney for Defendant,
Pressure Cleaning
3300 PGA Blvd., Suite 630
Palm Beach Gardens, FL 33410
Telephone: (561) 627-4775
Facsimile: (561) 627-4802
Fla. Bar No.: 375187

LAW OFFICES OF
ALAN C. ESPY, P.A.
3300 PGA BOULEVARD
SUITE 630
PALM BEACH GARDENS, FLORIDA 33410
E-MAIL: espy@flite.net

ALAN C. ESPY*
*FLORIDA BAR BOARD
CERTIFIED CIVIL
TRIAL LAWYER

TELEPHONE
(561) 627-4775
TELEFAX (561) 627-4802

—

JAMES C. PAINE, JR.
OF COUNSEL

December 17, 2002

The Honorable William L. Roby
Martin County Courthouse
100 SE Ocean Blvd, Suite 263
Stuart, FL 34994

Re: Holbrook v. Buchmann, et al
Case No. 01-937 CA

Dear Judge Roby:

Enclosed is a copy of the original and copies of the order of dismissal which you earlier asked me to prepare following docket call.

I have spoken to the plaintiff, Ms. Holbrook, who opposes the order. I believe she has contacted your office directly

on the matter. The co-defendant agrees with the contents of the order.

Respectfully,

/s/ Alan C. Espy
ALAN C. ESPY

ACE/drl

cc: Diane Holbrook
Daniel F. Dill, Esquire

IN THE CIRCUIT COURT OF
THE NINETEENTH JUDICIAL
CIRCUIT IN AND FOR MARTIN
COUNTY FLORIDA

CASE NO: 01-937 CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, et al.,

Defendants.

_____/

FINAL ORDER OF DISMISSAL

THIS matter came before the court at a scheduled docket call on December 2nd, 2002. Due to the Plaintiff's failure to attend the docket call, either in person or through counsel, this matter is hereby dismissed without prejudice. The court reserves jurisdiction to tax attorney's fees and/or costs upon proper motion.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida this ___ day of December, 2002.

_____
CIRCUIT COURT JUDGE

Copies furnished to:

Diane Holbrook, PO Box 1512, Hobe Sound, FL 33455
Daniel F. Dill, Esquire, Post Office Box 3427, Orlando, FL 32802-3427
Alan C. Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, FL 33410

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT IN AND FOR MARTIN COUNTY, FLORIDA

CASE NO. 01-937CA

DIANE L. HOLBROOK,

Plaintiff/Appellant,

vs.

EILEEN BUCHMANN,

Defendants/Appellee

NOTICE OF APPEAL

(Filed Jan. 15, 2003)

SERVE ALSO: First Floridian Insurance Company Claims Department (as THE Carrier)

PRESSURE CLEANING SERVICES, INC., a Florida corporation,

Defendants/Appellee

SERVE ALSO: SAFECO Property & Casualty Insurance Companies American States (as THE Carrier)

SECOND HOUSING CORPORATION ET AL. *or* SUGAR PINES HOMEOWNER'S ASSOCIATION and/or SUGAR PINES, INC., all Florida corporations,

Defendants/Appellee.

SERVE ALSO: Jon L. Oswald as interested owner and/or President of Second Housing Corporation et al. or Sugar Pines Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO: State Farm Fire and Casualty Company Claims Department (as THE Carrier)

_____/

NOTICE IS GIVEN that Diane L. Holbrook, Plaintiff/Appellant, appeals to the Fourth District Court Of Appeal of the state of Florida, the orders of this court rendered on Circuit Court of the 19th Judicial Circuit CASE NO. 01-937CA December 18, 2002 order of Final Order Of Dismissal, September 24, 2002 (part in denying) order of Order Granting In Part And Denying In Part Defendant, Pressure Cleaning Services, Inc.'s, Motion To Strike Or Dismiss Amended Complaint, September 4, 2002 order of Order On Defendant, Second Housing Corporation's Motion For Summary Judgment, and unsigned since September 16, 2002 filing of motions for Motion For Default by the Clerk with supporting Affidavit. September 16, 2002 filing of Motion For Default By The Court with accompany order for Order Re: Default By Court. All the above are attached in accordance with rules 9.110(d), and 9.160(c). The nature of the order is a final order stating Final Order Of Dismissal due to the Plaintiff's failure to attend the docket call (when Plaintiff's jury trial dates were subsequent to docket call).

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff/Appellant
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

The undersigned certifies that a copy hereof has been furnished to: Daniel F. Dill, Esquire, Rogers, Coleman, Pendas, Knapp & Dill, P.A., Post Office Box 3427, Orlando, Florida 32802-3427; Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A., 301 E. Ocean Boulevard, Suite

200, Stuart, Florida 34994; Alan C. Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, Florida 33410 by certificate of mailing receipt of United States mail on this 15th day of January, 2003.

/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Phone: (772) 545-9793
Plaintiff/Appellant

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT MARTIN COUNTY, FLORIDA

Ben L. Bryan Jr., Circuit Judge ***9/20/02***
100 East Ocean Blvd., Suite 263
Stuart, Florida 34994
Trial Period: October 14, 2002 – December 30, 2002)
(Cases scheduled from September 19, 2002

[Attention: Maggie

FAX (772) 463-3283

Plaintiff plans to do Notice of Appeal approx. January 15th, 2003. If this was honestly OVERLOOKED, then the appropriate ORDERS should be done urgently to avoid Appeal.

Copy will be Court Filed then.]

TRIAL SCHEDULE - CIVIL DIVISION

PLACE: Courtroom "A", 2nd Floor
Martin County Courthouse
100 East Ocean Boulevard
Stuart, Florida 34994

ALL COUNSEL (AND ANYONE NEEDED FOR JURY SELECTION) ARE TO BE PRESENT ON THE DAY THEIR CASE IS SCHEDULED, WHETHER IT BE THE #1 CASE OR A BACKUP CASE. WITNESSES FOR BACKUP CASES SHOULD BE AVAILABLE AT 1:30 P.M. ON THAT DATE.

A JURY CASE NOT TRIED ON ITS SCHEDULED DATE IS RESCHEDULED FOR THE DOCKET CALL ON ***DECEMBER 2, 2002 AT 9:00 A.M.*** *BEFORE JUDGE WILLIAM ROBY*. COUNSEL WILL BE PRESENT WITH CALENDARS. A NONJURY CASE NOT TRIED ON ITS SCHEDULED DATE WILL BE NOTIFIED AS TO THE NEXT DOCKET CALL DATE. CASES SPECIALLY SET HEREIN FOR [**] *DATES SUBSEQUENT TO DECEMBER 2 ARE NOT REQUIRED TO ATTEND THE DECEMBER 2 DOCKET CALL.*

[** Plaintiff was at Court Room A on Dec. 16th 2002 approximately 8:50 A.M. for appearance for jury trial. Plaintiff was, also, at court on Dec. 17th, 2002 approximately 8:20 A.M. Plaintiff did not see Defendants on either day.

/s/ Diane L. Holbrook]

Thursday, September 19, 2002

[SETTLED]

Monday, December 16, 2002*

9:00 a.m., #1 on docket:

00-896 CA	**Colebrook vs. State Farm et al** (3 days) **JURY**	LEWIS ELDER/ McGINLEY

[SETTLED]

9:00 a.m., #2 on docket:

01-499 CA	**Braun vs. Wellcraft Marine Corp et al** (3 days) **JURY**	KOHL SARASON/DAVID

[SETTLED]

[SETTLED]

* * *

9:00 a.m., #4 on docket:

01-937 CA	**Holbrook vs. Buchmann et al** (3 days) **JURY**	HOLBROOK, pro se
	Note: Copy being mailed to:	DILL & ESPY
	Note: Copy being mailed to:	MORTELL, E.

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN COUNTY FLORIDA

CASE NO. 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, et al.,

Defendants. /

FINAL ORDER OF DISMISSAL

(Filed Dec. 18, 2002)

THIS matter came before the court at a scheduled docket call on December 2nd, 2002. Due to the Plaintiff's failure to attend the docket call, either in person or through counsel, this matter is hereby dismissed without prejudice. The court reserves jurisdiction to tax attorney's fees and/or costs upon proper motion.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida this ___ day of December, 2002.

/s/ William L. Robey
CIRCUIT COURT JUDGE

Copies furnished to:

Diane Holbrook, PO Box 1512, Hobe Sound, FL 33455
Daniel F. Dill, Esquire, Post Office Box 3427, Orlando, FL 32802-3427
Alan C. Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, FL 33410

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	4615
CONNECTION TEL	5614633283
SUBADDRESS	
CONNECTION ID	
ST. TIME	01/09 08:43
USAGE T	00'36
PGS. SENT	1
RESULT	OK

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN COUNTY FLORIDA

CASE NO.: 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, et al.,

Defendants. /

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT, PRESSURE CLEANING SERVICES, INC.'S, MOTION TO STRIKE OR DISMISS AMENDED COMPLAINT

THIS CAUSE having come before the court on the motion of the Defendant, Pressure Cleaning Services, Inc., to dismiss and/or strike the Plaintiff's amended complaint and the court having heard the argument of counsel, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED that any and all claims in the amended complaint for punitive damages [without prejudice] are hereby stricken for the reasons set forth in Defendant's motion. The remainder of the Defendant's motion to dismiss and/or strike the Plaintiff's amended complaint is hereby denied. The Defendant, Pressure Cleaning Services, Inc., has ten (10) days from the date of this order within which to file an answer and affirmative defenses.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida this 24 day of September, 2002.

/s/ Ben L. Bryan, Jr.
CIRCUIT COURT JUDGE

Copies furnished to:

Diane Holbrook, PO Box 1512, Hobe Sound, FL 33455
Daniel F. Dill, Esquire, Post Office Box 3427, Orlando, FL 32802-3427
Edwin F. Mortell, III, Esquire, 301 East Ocean Boulevard, Suite 200, Stuart, FL 34994
Alan C. Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, FL 33410

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CASE NO.: 01-937CA

DIANE L. HOLBROOK, Plaintiff,

vs.

EILEEN BUCHMANN, Defendants

SERVE ALSO:

First Floridian Insurance Company Claims
Department (as THE Carrier)
1000 Legion Place and/or P. O. Box 30180
P. O. Box 4962 Tampa, FL 33630-3180
Orlando, FL 32802-4962 Attn: Mr. Randy Greer
Insurance Adjuster Tina M. Boskovich

PRESSURE CLEANING SERVICES, INC.,
a Florida corporation, Defendants

SERVE ALSO:

SAFECO Property & Casualty Insurance Companies
American States (as THE Carrier)
Maitland Claims Office Mailing address:
2201 Lucien Way Suite 300 14286-19 Beach Blvd. #343
Maitland, FL 32[illegible] Jacksonville, FL 32250
Attn: Stephen M. [illegible]ling

SECOND HOUSING CORPORATION ET AL. *or*
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations, Defendants.

SERVE ALSO:

Jon L. Oswald as interested owner and/or President
of Second Housing Corporation et al. or Sugar Pines
Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO:
State Farm Fire and Casualty Company
Claims Department (as THE Carrier)
1811 South 25th Street
Fort Pierce, FL 34947-4783
Insurance Adjuster Mr. Sam Cartwright

_____/

ORDER GRANTING PLAINTIFF, DIANE L. HOLBROOK'S AMENDED COMPLAINT IN IT'S ENTIRETY Re: PREVIOUSLY GRANTED PLAINTIFF'S MOTION TO AMEND ALSO HEARING DENIED DISMISS-STRIKE MATTERS

(Filed Sept. 13, 2002)

THIS CAUSE having come before the court on the motion of the Defendant, Pressure Cleaning Services, Inc., to dismiss and/or strike the Plaintiff's Amended Complaint and this honorable court having heard the argument of counsel, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED that Plaintiff's Amended Complaint in it's entirety be GRANTED as this Honorable Court has verbally stated on September 9th, 2002. See Court Notes of September 9th, 2002 in court file. See attached copy of ORDER previously GRANTED Plaintiff's Motion To Amend and already included for added punitive damages starting (12.) within the Plaintiff's Motion to Amend. None of the Defendant's Opposed or Objected within the allowable time frame to do so. Hearing on this was August 20, 2002 and none of the Defendant's pleaded to Deny Plaintiff's Motion to Amend or even strike any contents of it. Please note filing date August 8, 2002.

ORDERED AND ADJUDGED as follows:

1. _____

_____

DONE AND ORDERED in Stuart, Martin County, Florida this 13th day of September, 2002.

_____
CIRCUIT COURT JUDGE

Copies furnished to:

Daniel F. Dill, Esquire
Alan C. Espy, Esquire
Edwin E. Mortell, III, Esquire
Diane L. Holbrook

Attached (3) three copies consist of GRANTED ORDER RE: PLAINTIFF'S Motion to Amend and a couple pages of Plaintiff's Motion to Amend.

COPIES FURNISHED TO:

Daniel F. Dill, Esquire, Rogers, Dowling & Coleman, P.A.
Post Office Box 3427
Orlando, FL 32802-3427

Alan C. Espy, Esquire
3300 PGA Boulevard, Suite 630
Palm Beach Gardens, FL 33410

Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A.
301 E. Ocean Boulevard, Suite 200
Stuart, FL 34994

Diane L. Holbrook
Post Office Box 1512
Hobe Sound, FL 33475-1512

The undersigned certifies that a copy hereof has been furnished via U.S. Mail to: Daniel F. Dill, Esquire, Rogers, Dowling & Coleman, P.A.; Alan C. Espy, Esquire; Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A. on this 13th day of September, 2002.

/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Phone: (772) 545-9793
Plaintiff/In propria persona

DOCKET CALL COURT NOTES

(Filed Sept. 9, 2002)

CASE NO.:	01-937CA
STYLE OF CASE:	HOLBROOK VS BUCHMANN, ET AL.
DATE:	09/09/2002
TIME:	9:00 A.M.
JUDGE:	BEN L. BRYAN, JR.
CLERK(S):	CAROL JETER/SHERRY LEWIS
BAILIFF(S):	STEVE MULLINS
COURT REPORTER:	

THE FOLLOWING OCCURRED AT DOCKET CALL:

COUNSEL'S NAME/PARTY REPRESENTED	R = READY NR = NOT READY MTC = MOVED TO CONT.	CONFLICT DATES
[✓] Bruce Williamson		
[✓] David Knapp (for Dill)		(after 09/09)
[✓] Holbrook Pro Se		

TOTAL PEREMPTORY CHALLENGES: _____

ESTIMATED DURATION OF TRIAL: 3 days or 4

COURT ACTION: (MTCD = MOTION TO CONTINUE DENIED

MTCG = MOTION TO CONTINUE GRANTED)

Atty states case is not at issue – Mtn For Leave To Amend filed – 08/27/02 Amended Complaint Denied Mtn To Dismiss – Strike matter re: punitive damages (needs Mtn to Add Pun. Damage)

[/s/ MSJ - 10/09] #4 12/16/02 Trial

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, PRESSURE CLEANING SERVICES, INC., a Florida corporation, SECOND HOUSING CORPORATION ET AL., SUGAR PINES HOMEOWNER'S ASSOCIATION, and/or SUGAR PINES, INC., all Florida corporations,

Defendants.

SERVE ALSO: Jon L. Oswald as interested owner and/or President of Second Housing Corporation et al., Sugar Pines Homeowner's Association, and/or Sugar Pines, Inc.

_____/

PLAINTIFF'S MOTION TO AMEND

(Filed Aug. 8, 2002)

Plaintiff moves to amend the complaint by adding (2) two other defendants known under claim number: 59-A132-353 for clarification of all parties and the following paragraphs:

(5.) According to "Affidavit of Jon L. Oswald" in paragraph #1. has Owner of Second Housing Corporation as one company and also lists Presidents of Sugar Pines Homeowners' Association separately as other businesses.

(6.) According to photos taken, bushes were overgrown which obstructed view of walkway and other photos shows the isolating runoff substances deposited from the gutter downspout resting on the walkway. This overextension is an unsafe hazard! Definition of downspout is a pipe that carries rain water from a roof to the ground or to a sewer or drain (NOT WALKWAY). See attachment of copies of isolated in reference to downspout for exhibits.

(12.) Plaintiff demands for interest from the date of occurrence on all medical expenses arising from on or about November 7, 1997. Plaintiff, also, demands for medicare to be reimbursed and Plaintiff to be reimbursed on medical expenses that were paid out of both of our pockets. The defendant(s) acted with actual malice action in bad faith in not paying within the 60 day interval or acted under circumstances amounting to a willful and wanton disregard of the plaintiff's rights. See exhibit of phone records taken by Plaintiff on January 5, 1998 approximately 11:31 a.m. leaving message about insurance from policy holder not paid on bills . . . Bill of $635.91, Bill of $175.00, Bill of $17.00. Reminder of in two days for 60 day liability will show bad faith in not paying! Adjustor was warned and therefore Plaintiff may assess punitive damages against the insurance from policy holder.

(13.) Plaintiff shows that a reasonable basis for the recovery of punitive damages is shown by evidence obtained in

* * *

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, PRESSURE CLEANING SERVICES, INC., a Florida corporation, SECOND HOUSING CORPORATION ET AL., SUGAR PINES HOMEOWNER'S ASSOCIATION, and/or SUGAR PINES, INC., all Florida corporations,

Defendants.

SERVE ALSO: Jon L. Oswald as interested Owner and/or President of Second Housing Corporation et al., Sugar Pines Homeowner's Association, and/or Sugar Pines, Inc.

/

ORDER RE: PLAINTIFF'S MOTION TO AMEND

(Filed Aug. 20, 2002)

THIS CAUSE having come on to be heard upon the Plaintiff's Motion To Amend as for plaintiff, DIANE HOLBROOK, and the Court having heard and having reviewed the Order submitted by plaintiff and in all other respects having been fully advised in the premises, it is

ORDERED AND ADJUDGED as follows:

1. granted

DONE AND ORDERED in Stuart, Martin County, Florida this 20th day of August, 2002

/s/ Ben L. Bryan, Jr.
CIRCUIT COURT JUDGE

COPIES FURNISHED TO:

Daniel F. Dill, Esquire, Rogers, Dowling & Coleman, P.A.
Post Office Box 3427
Orlando, FL 32802-3427

Alan C. Espy, Esquire
3300 PGA Boulevard, Suite 630
Palm Beach Gardens, FL 33410

Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A.
301 E. Ocean Boulevard, Suite 200
Stuart, FL 34994

Diane L. Holbrook
Post Office Box 1512
Hobe Sound, FL 33475-1512

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL
CIRCUIT, IN AND FOR
MARTIN COUNTY, FLORIDA

CASE NUMBER: 01-937 CA

DIANE L. HOLBROOK,

Plaintiff,

v.

EILEEN BUCHMANN, PRESSURE CLEANING SERVICES, INC., a Florida corporation, SECOND HOUSING CORPORATION, a Florida corporation,

Defendants.
_____/

ORDER ON DEFENDANT, SECOND HOUSING CORPORATION'S MOTION FOR SUMMARY JUDGMENT

(Filed Sep. 4, 2002)

THIS MATTER having come before the Court this 4th day of September, 2002, upon the Motion for Summary Judgment filed by Defendant, SECOND HOUSING CORPORATION, and the Court, having heard argument of counsel, and being otherwise fully advised in the facts and premises, it is hereby;

ORDERED AND ADJUDGED that the Motion be, and the same is hereby GRANTED/~~DENIED~~. _____

_____

_____

DONE AND ORDERED this 4 day of September, 2002, at Stuart, Martin County, Florida.

/s/ Ben L. Bryan, Jr.
HONORABLE BEN L. BRYAN
CIRCUIT COURT JUDGE

Copies to:
Diane Holbrook, Pro Se Plaintiff, P.O. Box 1512, Hobe Sound, FL 33455
Alan C. Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, FL 33401
Daniel F. Dill, Esquire, ROGERS, DOWLING & COLEMAN, P.A., P.O. Box 3427, Orlando, FL 32802
Edwin E. Mortell, III, Esquire, Peterson, Bernard, et al. 301 East Ocean Boulevard, #200, Stuart, FL 34994

CASE NUMBER: 01-937CA
DATE: 8/20/2002
TIME: 8:45

CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT, IN AND FOR MARTIN COUNTY, STATE OF FLORIDA, CONVENED WITH JUDGE BEN L. BRYAN, JR. PRESIDING.

(Filed Aug. 20, 2002)

OTHER COURT OFFICIAL PRESENT WERE:

PLAINTIFF ATTORNEY: Diane L. Holbrook – pro se

DEFENDANT ATTORNEY: 2nd Housing

DEPUTY CLERK: CAROL JETER/SHERRY LEWIS

COURT REPORTER/FIRM: _____

BAILIFF: BOB WILLMARTH

COURT WAS OPENED BY PROCLAMATION OF THE BAILIFF AND THE FOLLOWING CAME BEFORE THE COURT FOR MARTIN COUNTY

STYLE OF CASE: Diane L. Holbrook

VS

Eileen Buchmann, et al

ACTION TAKEN: Pl's Request to Produce For Inspection and Copying: Will produce Minutes

[Df's] Motion for Summary Judgment:

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CASE NO.: 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

vs.

EILEEN BUCHMANN, Defendants

SERVE ALSO:
First Floridian Insurance Company
Claims Department (as THE Carrier)
1000 Legion Place and/or P. O. Box 30180
P. O. Box 4962 Tampa, FL 33630-3180
Orlando, FL 32802-4962 Attn: Mr. Randy Greer
Insurance Adjuster Tina M. Boskovich

PRESSURE CLEANING SERVICES, INC.,
a Florida corporation, Defendants

SERVE ALSO:
SAFECO Property & Casualty Insurance Companies
American States (as THE Carrier)
Maitland Claims Office Mailing address:
2201 Lucien Way Suite 300 14286-19 Beach Blvd. #343
Maitland, FL 32250 Jacksonville, FL 32250
Attn: Stephen M. Ruling

SECOND HOUSING CORPORATION ET AL. or
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations, Defendants.

SERVE ALSO:
Jon L. Oswald as interested owner and/or President
of Second Housing Corporation et al. or Sugar Pines
Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO:
State Farm Fire and Casualty Company
Claims Department (as THE Carrier)
1811 South 25th Street
Fort Pierce, FL 34947-4783
Insurance Adjuster Mr. Sam Cartwright

_____/

MOTION FOR DEFAULT

(Filed Sep. 16, 2002)

COMES NOW the Plaintiff, DIANE L. HOLBROOK, by and through undersigned in propria persona, and moves this Court for the entry of a default by the Clerk against the Defendant, EILEEN BUCHMANN, for failure to serve any papers on the undersigned or file any papers as required by law.

/s/ Diane L. Holbrook
/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, FL 33475-1512
Phone: (772) 545-9793
In propria persona for
Plaintiff

DEFAULT

A default is entered in this action against the defendant named in the foregoing motion for failure to serve or file any papers required by law.

DATED on this 16th day of September, 2002.

(Name of Clerk)

_____

As Clerk of the Court

By _____

As Deputy Clerk

cc: Diane L. Holbrook, P. O. Box 1512, Hobe Sound, FL 33475-1512

cc: Daniel F. Dill, Esquire, Rogers, Dowling & Coleman, P.A., Post Office Box 3427, Orlando, FL 32802-3427

cc: Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A., 301 E. Ocean Blvd., Suite 200, Stuart, FL 34994

cc: Alan C. Espy, Esquire, 3300 PGA Blvd., Suite 630, Palm Beach Gardens, FL 33410

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CASE NO.: 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

vs.

EILEEN BUCHMANN, Defendants

SERVE ALSO:

First Floridian Insurance Company
Claims Department (as THE Carrier)
1000 Legion Place and/or P. O. Box 30180
P. O. Box 4962 Tampa, FL 33630-3180
Orlando, FL 32802-4962 Attn: Mr. Randy Greer
Insurance Adjuster Tina M. Boskovich

PRESSURE CLEANING SERVICES, INC.,
a Florida corporation, Defendants

SERVE ALSO:

SAFECO Property & Casualty Insurance Companies
American States (as THE Carrier)
Maitland Claims Office Mailing address:
2201 Lucien Way Suite 300 14286-19 Beach Blvd. #343
Maitland, FL 32250 Jacksonville, FL 32250
Attn: Stephen M. Ruling

SECOND HOUSING CORPORATION ET AL. *or*
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations, Defendants.

SERVE ALSO:

Jon L. Oswald as interested owner and/or President
of Second Housing Corporation et al. or Sugar Pines
Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO:
State Farm Fire and Casualty Company
Claims Department (as THE Carrier)
1811 South 25th Street
Fort Pierce, FL 34947-4783
Insurance Adjuster Mr. Sam Cartwright

_____/

MOTION FOR DEFAULT

(Filed Sep. 16, 2002)

COMES NOW the Plaintiff, DIANE L. HOLBROOK, by and through undersigned in propria persona, and moves this Court for the entry of a default by the Clerk against the Defendant, SUGAR PINES HOMEOWNER'S ASSOCIATION and/or SUGAR PINES, INC., all Florida corporations, for failure to serve any papers on the undersigned or file any papers as required by law.

/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, FL 33475-1512
Phone: (772) 545-9793
In propria persona for
Plaintiff

DEFAULT

A default is entered in this action against the defendant named in the foregoing motion for failure to serve or file any papers required by law.

DATED on this 16th day of September, 2002.

(Name of Clerk)

_____

As Clerk of the Court

By _____

As Deputy Clerk

cc: Diane L. Holbrook, P. O. Box 1512, Hobe Sound, FL 33475-1512

cc: Daniel F. Dill, Esquire, Rogers, Dowling & Coleman, P.A., Post Office Box 3427, Orlando, FL 32802-3427

cc: Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A., 301 E. Ocean Blvd., Suite 200, Stuart, FL 34994

cc: Alan C. Espy, Esquire, 3300 PGA Blvd., Suite 630, Palm Beach Gardens, FL 33410

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CASE NO.: 01-937CA

DIANE L. HOLBROOK,

Plaintiff,

vs.

EILEEN BUCHMANN, Defendants

SERVE ALSO:

First Floridian Insurance Company
Claims Department (as THE Carrier)
1000 Legion Place and/or P. O. Box 30180
P. O. Box 4962 Tampa, FL 33630-3180
Orlando, FL 32802-4962 Attn: Mr. Randy Greer
Insurance Adjuster Tina M. Boskovich

PRESSURE CLEANING SERVICES, Inc.,
a Florida corporation, Defendants

SERVE ALSO:

SAFECO Property & Casualty Insurance Companies
American States (as THE Carrier)
Maitland Claims Office Mailing address:
2201 Lucien Way Suite 300 14286-19 Beach Blvd. #343
Maitland, FL 32250 Jacksonville, FL 32250
Attn: Stephen M. Ruling

SECOND HOUSING CORPORATION ET AL. or
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations, Defendants.

SERVE ALSO:

Jon L. Oswald as interested owner and/or President
of Second Housing Corporation et al. or Sugar Pines
Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO:
State Farm Fire and Casualty Company
Claims Department (as THE Carrier)
1811 South 25th Street
Fort Pierce, FL 34947-4783
Insurance Adjuster Mr. Sam Cartwright

_____/

AFFIDAVIT – IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT – FAILURE TO PLEAD OR OTHERWISE DEFEND AS PROVIDED BY RULES OR APPLICABLE STATUTE OR ORDER OF COURT (RCP 1.140(a)(3))

(Filed Sep. 16, 2002)

I, Diane L. Holbrook, being first sworn, depose and state:

1. I am the Plaintiff in the above-entitled action.

2. On August 20th, 2002, Plaintiff's Motion to Amend Complaint was Granted by this Court for within 10 days as provided by Rules of Civil Procedure 1.140(a)(3) to Amend Complaint.

3. On August 27th, 2002, Plaintiff filed and certified U. S. Mail to Defendants being within 10 days after notice of the court's Order. Original filed in the court on August 27th, 2002. Copies of the amended complaint were mailed out the same day.

4. Time for Defendants to plead or otherwise defend, as provided by Rules of Civil Procedure 1.140(a)(3) has expired, and Defendants have not done so, in that more than ten (10) days have elapsed since furnished to all of the Defendants, no pleading or otherwise defend [was delivered] with the exception of PRESSURE CLEANING SERVICES, INC., a Florida corporation has been received

by the undersigned Plaintiff, and no pleading or otherwise defend [was received into Court] with the exception of PRESSURE CLEANING SERVICES, INC., a Florida corporation was filed with the Clerk of the Court.

5. The default of Defendants, EILEEN BUCHMANN and also SUGAR PINES HOMEOWNER'S ASSOCIATION and/or SUGAR PINES, INC. on the claim as charged in the amended complaint should be entered.

Dated on this 14th day of September, 2002.

Diane L. Holbrook

/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, FL 33475-1512
Phone: (772) 545-9793
Plaintiff/In propria persona

I CERTIFY, that a copy of this Affidavit – in support of Motion for entry of Default – Failure to plead or otherwise defend as provided by rules or applicable statute or order of court (RCP 1.140(a)(3)) has been furnished via certified U.S. Mail to: Daniel F. Dill, Esquire, Rogers, Dowling & Coleman, P.A., Post Office Box 3427, Orlando, FL 32802-3427; Alan C. Espy, Esquire, 3300 PGA Blvd., Suite 630, Palm Beach Gardens, FL 33410; Edwin E. Mortell, III, Esquire, Peterson, Bernard, Vandenberg, Zei, Geisler & Martin, P.A., 301 E. Ocean Blvd., Suite 200, Stuart, FL 34994 on this 14th day of September, 2002.

/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, FL 33475-1512
Phone: (772) 545-9793
Plaintiff/In propria persona

Rule 1.140. Defenses

(a) When Presented.

* * *

(3) If the court permits or requires an amended or responsive pleading or a more definite statement, the pleading or statement shall be served within 10 days after notice of the court's action. Responses to the pleadings or statements shall be served within 10 days of service of the pleadings or statements.

* * *

IN THE CIRCUIT COURT OF
THE 19TH JUDICIAL CIRCUIT
IN AND FOR MARTIN
COUNTY, FLORIDA

CASE NO.: 01-937CA

4th DCA CASE NO.: 4D03-187

DIANE L. HOLBROOK,

Plaintiff,

vs.

EILEEN BUCHMANN,

SERVE ALSO:
First Floridian Insurance Company
Claims Department (as THE Carrier);

PRESSURE CLEANING SERVICES, INC.,
a Florida corporation,

SERVE ALSO:
SAFECO Property & Casualty Insurance Companies
American States (as THE Carrier);

SECOND HOUSING CORPORATION ET AL. or
SUGAR PINES HOMEOWNER'S ASSOCIATION and/or
SUGAR PINES, INC., all Florida corporations,

SERVE ALSO:
JON L. OSWALD as REGISTERED AGENT,
Jon L. Oswald as interested owner and/or President
of Second Housing Corporation Et Al. or Sugar Pines
Homeowner's Association or Sugar Pines, Inc.

SERVE ALSO:
State Farm Fire and Casualty Company
Claims Department (as THE Carrier),

Defendants.

_____/

ORDER VACATING FINAL ORDER OF DISMISSAL WITH PREJUDICE and ORDER VACATING ORDER OF SECOND HOUSING CORPORATION (ET AL.)'S SUMMARY JUDGMENT and ORDER GRANTING FINAL ORDER OF FINAL JUDGMENT IN FULL FAVOR OF PLAINTIFF WITH PREJUDICE

This matter was mistakenly previously dismissed by the Court with prejudice. Under Rules of Civil Procedure Rule 1.540(b)(1) allows such Orders to be Reversed.

Motion For Rehearing subsequently taken and served upon Defendants and filed before time has expired on Monday, December 22nd, 2003 statute of limitations for mailing and filing at the Court.

ORDERED AND ADJUDGED that the Orders of Final Order of Dismissal with Prejudice is Vacated and Order of Second Housing Corporation (ET AL.)'s Summary Judgment is Vacated for the reasons previously set forth in this Court's Motion For Rehearing as well as for the reasons set forth in plaintiff's Affidavit of Diane L. Holbrook in Support of Final Order of Final Judgment in Favor of the Plaintiff with Prejudice.

ORDERED AND ADJUDGED that this matter is GRANTED Final Order of Final Judgment in Full Favor Of Plaintiff With Prejudice.

DONE AND ORDERED in Chambers at ___, ___, Florida this ___ day of ___, 200__.

_____

CIRCUIT COURT JUDGE

Copies furnished to:

Alan Clayton Espy, Esquire, 3300 PGA Boulevard, Suite 630, Palm Beach Gardens, Florida 33410

Daniel F. Dill, Esquire, ROGERS, COLEMAN, PENDAS, KNAPP & DILL, P.A., Post Office Box 3427, Orlando, Florida 32802-3427

Elizabeth A. Metzger, Esquire/Edwin E. Mortell, III, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., 301 E. Ocean Boulevard, Suite 200, Stuart, Florida 34994

Diran V. Seropian, Esquire, PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A., Post Office Drawer 15700, West Palm Beach, Florida 33406

Diane L. Holbrook, Post Office Box 1512, Hobe Sound, Florida 33475-1512

(ORDER LIST: 540 U.S.)

U.S. Supreme Court

MONDAY, DECEMBER 1, 2003

* * *

REHEARING DENIED

* * *

02-1613 HOLBROOK, DIANE L. V. ALLIED VAN LINE, INC.

* * *

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 6, 2003

Ms. Diane L. Holbrook
PO Box 1512
Hobe Sound, FL 33475-1512

Re: Diane L. Holbrook
v. Allied Van Line, Inc.
No. 02-1613

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

October 1, 2001

Ms. Diane L. Holbrook
PO Box 1512
Hobe Sound, FL 33475-1512

Re: Diane L. Holbrook
v. Nationwide Mutual Insurance Company
No. 01-31

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

December 3, 2001

Ms. Diane L. Holbrook
PO Box 1512
Hobe Sound, FL 33475-1512

Re: Diane L. Holbrook
v. Nationwide Mutual Insurance Company
No. 01-31

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

Case No.: 01-14198-CV-MOORE

DIANE L. HOLBROOK,

Plaintiff

vs.

ALLIED VAN LINES, INC.
a FOREIGN CORPORATION,

Defendant /

AFFIDAVIT OF DIANE HOLBROOK
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL JUDGMENT IN FULL
(Filed Feb. 26, 2002)

UPON being duly sworn, deposes and states:

1. Plaintiff Diane L. Holbrook did not have Homeowner's Insurance in fall of 1996.

2. Plaintiff Diane L. Holbrook did not have Rental Insurance in fall of 1996.

This covers the time period of Allied Van Lines, Inc. a Foreign Corporation's move [me /s/DLH] to Florida in fall of 1996.

Respectfully submitted,

/s/ Diane L. Holbrook

Diane L. Holbrook
P.O. Box 1512
Hobe Sound, Florida 33475-1512
Telephone: 1 (772) 545-9793

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been furnished via FAX to Defendant per request and United States Mail to: Gilda M. Chavez, Esquire, 1700 Miami Center, 201 S. Biscayne Blvd., Miami, Florida 33131 on this the 26th day of February, 2002.

/s/ Diane L. Holbrook

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

Case No.: 01-14198-CV-MOORE

DIANE L. HOLBROOK,
Plaintiff

vs.

ALLIED VAN LINES, INC.
a FOREIGN CORPORATION,
Defendant /

ORDER

IT IS HEREBY ORDERED that the above-captioned matter of all Clerical Mistakes on all records tc be corrected pursuant to Rule 60(a) of the Federal Rules of Civil Procedure.

Dated:

United States Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 01-14198-CIV-MOORE/LYNCH

DIANE L. HOLBROOK,

Plaintiff,

v.

ALLIED VAN LINES, INC.,

Defendant. /

ORDER ON PLAINTIFF'S MOTION FOR CLARIFICATION [D.E. #31]

(Filed Mar. 20, 2002)

THIS CAUSE having come on to be heard upon the aforementioned motion and this Court having reviewed the motion, makes the following findings:

1. The Plaintiff's Motion for Clarification is more in the nature of an objection which should be properly titled an objection and directed to the District Court for review of this Court's previous orders. If the time has expired for the filing of an objection in regards to any prior orders or reports and recommendations issued by this Court or if the District Court has already entered orders adopting and approving any such orders and/or reports and recommendations, then any objection/appeal of those to the District Court would not be available to the Plaintiff. However, any orders and/or reports and recommendations which have not yet been adopted or approved by the District Court and regarding which the time for the filing of objections has not expired, can be "objected to" by the *pro se* Plaintiff by the filing of

objections with the District Court for review. This is in the nature of an appeal of this Court's orders to the District Court and the District Court will then make a determination based upon those objections, if any.

2. The Plaintiff also objects that she did not agree to have this Court enter any orders concerning her Motion For All Clerical Mistakes To Be Corrected or on Defendant's Motion For Summary Judgment. However, consent of the parties is not required for orders and reports and recommendations on motions specifically referred by the District Court. There is an Order of Referral from Judge Moore in this case for all pretrial matters and that is why this Court ruled on pending motions and issued orders and/or reports and recommendations as were deemed appropriate.

3. This Court believes that its previous orders sufficiently state the reasons why the Plaintiff's position was not sustainable in this case. This Court is not going to reiterate those reasons at this point. Since this Court has already ruled on the Motion For Summary Judgment and motions relating thereto, this Court denied the Plaintiff's Motion For All Clerical Mistakes To Be Corrected. Additionally, this Court did not find any basis for awarding that relief as requested by the Plaintiff.

It is therefore

ORDERED AND ADJUDGED that the Plaintiff's Motion For Clarification [D.E. #31] is **DENIED**.

DONE AND ORDERED this 20 day of March, 2002, at Fort Pierce, Northern Division of the Southern District of Florida.

/s/ Frank J. Lynch, Jr.
FRANK J. LYNCH, JR.
UNITED STATES
MAGISTRATE JUDGE

Copies furnished:
Hon. K. Michael Moore

Diane L. Holbrook, pro se
P.O. Box 1512
Hobe Sound, FL 33475

Gilda M. Chavez-Hernandez, Esq.
201 South Biscayne Boulevard
Suite 1700
Miami, FL 33131

DOMBROFF & GILMORE [STAMP]
1700 MIAMI CENTER •
201 SOUTH BISCAYNE BOULEVARD
MIAMI, FLORIDA 33131

Diane L. Holbrook
P.O. Box 1512
Hobe Sound, FL 33475-1512

CLOSED CIVIL CASE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FT. PIERCE DIVISION

DIANE L. HOLBROOK,
Plaintiff,

Case No. 01-14198-CIV-MOORE/LYNCH

vs.

ALLIED VAN LINES, INC.,
Defendant. /

ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION

(Filed Mar. 27, 2002)

THIS CAUSE came before the Court upon Defendant's Motion for Summary Judgment (DE #13).

THE MATTER was referred to the Honorable Frank J. Lynch, United States Magistrate Judge. A Report and Recommendation of Magistrate Judge dated February 27, 2002 has been filed recommending that Defendant's Motion for Summary Judgment be granted. On March 11, 2002, Plaintiff filed a Motion for Clarification and a Notice of Filing, both of which this Court will construe as objections to the Report and Recommendation.

UPON CONSIDERATION of the Report and Recommendation, and after a de novo review of the record herein, the Court enters the following order ADOPTING the Report and Recommendation in full, and entering summary judgment against Plaintiff.

A. Discussion

I. Common Law Claims

Magistrate Judge Lynch recommended that summary judgment be entered against Plaintiff on her common law claims, because the claims are preempted by the Carmack Amendment. Plaintiff's objections do not directly address this conclusion, and the Court agrees that the common law claims are preempted. Therefore, this Court will enter summary judgment against Plaintiff with respect to her common law claims.

II. Carmack Amendment Claim

Magistrate Judge Lynch recommended that summary judgment be entered against Plaintiff on her Carmack Amendment claim because she failed to show that she filed a proper notice of claim with Defendant, in compliance with 49 U.S.C. § 14706(e). He further found that the statute of limitations for the claim had expired.

In her Motion for Clarification, Plaintiff contests Defendant's Affidavit stating that Defendant had no notice of the claim. However, Plaintiff again fails to substantiate her assertion that she gave Defendant proper notice of her claim. The exhibits attached to her Notice of Filing do not in any way lend support to her assertion. The exhibits are: (1) two documents entitled "ESTIMATED COSTS OF SERVICES"; (2) a document entitled "ALLIED VAN LINES BILL OF LADING & FREIGHT BILL"; (3) a document entitled "INTERSTATE AUTOMATED SCALE SYSTEMS"; (4) a list designated "THESE ITEMS ARE INCLUDED IN THE SINGLE FACTOR CHARGES"; and (5) a document entitled "LOCAL MOVING PROPOSAL." Clearly, none of these documents constitute proper notice

under the Carmack Amendment. *See* 49 U.S.C. § 14706(e). Therefore, this Court agrees with Magistrate Judge Lynch that Plaintiff has failed to offer evidence capable of showing that she complied with the necessary pre-suit requirements, and will enter summary judgment against Plaintiff on this claim.

III. Other Objections by Plaintiff

Plaintiff also contends that the entry of summary judgment against her is not appropriate because this Court lacks jurisdiction over the action, which was removed to this Court by Defendant. Plaintiff reasons that the amount in controversy does not exceed $15,000. However, 28 U.S.C. § 1331 provides:

> The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: Provided, however, That the district courts shall have original jurisdiction of an action brought under section 11706 or 14706 of title 49, only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs.

Because Plaintiff seeks $15,000 in damages, this Court has subject matter jurisdiction.

In addition, Plaintiff contends that a demand of $0,000. "shown on the screen at the Courthouse." is a clerical error, and should be corrected pursuant to Fed. R. Civ. P. 60(a). Because Magistrate Judge Lynch's Report and Recommendation was not based on this clerical error, this objection is inapposite.

B. Conclusion

Accordingly, based on the foregoing, and after a *de novo* review of the record herein, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED that United States Magistrate Judge Lynch's Report and Recommendation be, and the same is, hereby ADOPTED in its entirety.

IT IS FURTHER ORDERED, and based thereon, that Defendant's Motion for Summary Judgment (DE # 13) is GRANTED.

This case is CLOSED. All pending motions not otherwise ruled upon are DENIED as moot.

DONE AND ORDERED in Chambers at Miami, Florida, this 27th day of March, 2002.

/s/ K. M. Moore
K. MICHAEL MOORE
UNITED STATES
DISTRICT JUDGE

Copies provided:

United States Magistrate Judge Frank J. Lynch

Diane L. Holbrook, *Pro Se*
PO Box 1512
Hobe Sound, FL 33475-1512

Gilda M. Chavez, Esq.

Diane L. Holbrook
P.O. Box 1512
Hobe Sound, FL 33475-1512

February 12, 2003

RE: 02-12030-FF Diane L. Holbrook v. Allied Van Lines
DC DKT NO.: 01-14198 CV-KMM

TO: Clarence Maddox

CC: Diane L. Holbrook

CC: Gilda M. Chavez

CC: Hon. Frank J. Lynch Jr.

CC: Administrative File

[Notice that the *ASSIGNED* United States District Court Judge K. Michael Moore is not listed to receive a copy of the decision from the Court Of Appeals!]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 02-12030-FF

DIANE L. HOLBROOK,

Plaintiff-Appellant,

versus

ALLIED VAN LINES, INC.,
a foreign corporation,

Defendant-Appellee.

On Appeal from the United States District Court for the Southern District of Florida

---

(Filed Feb. 12, 2003)

ORDER:

(✓) The motion of Appellant, Diane L. Holbrook, for (X) stay of the issuance of the mandate pending petition for writ of certiorari is DENIED.

( ) The motion of Appellant, Diane L. Holbrook, for (X) stay of the issuance of the mandate pending petition for writ of certiorari is GRANTED to and including May 5, 2003, the stay to continue in force until the final disposition of the case by the Supreme Court, provided that within the period above mentioned there shall be filed with the Clerk of this Court the certificate of the Clerk of the Supreme Court that

the certiorari petition has been filed. The Clerk shall issue the mandate upon the filing of a copy of an order of the Supreme Court denying the writ, or upon expiration of the stay granted herein, unless the above mentioned certificate shall be filed with the Clerk of this Court within that time.

/s/ Stanley F. Birch
UNITED STATES
CIRCUIT JUDGE

Ord-45

WAIVER

SUPREME COURT OF THE UNITED STATES

Supreme Court Case No. 02-1613

DIANE L. HOLBROOK v. ALLIED VAN LINES, INC., a foreign corporation

(Petitioner) (Respondent)

I DO NOT INTEND TO FILE A RESPONSE to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

☒ Please enter my appearance as Counsel of Record for all respondents.

☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

_____

_____

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain if your name has changed since your admission):

Signature Gilda M. Chavez
Application for admission is

Date: 6/3/03 filed concurrently herewith.

(Type or print) Name Gilda M. Chavez

☐ Mr. ☒ Ms. ☐ Mrs. ☐ Miss

Firm Dombroff & Gilmore, P.C.

Address 200 South Biscayne Blvd., Suite 1050

City & State Miami, FL Zip 33182

Phone 305-670-4843

A COPY OF THIS FORM MUST BE SENT TO PETITIONER'S COUNSEL OR TO PETITIONER IF *PRO SE*. PLEASE INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S) OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFICATE OF SERVICE IS REQUIRED.

SEE REVERSE FOR INFORMATION CONCERNING THE STATUS OF A CASE ON THE DOCKET.

CC:

---

800 GRAVES MILL ROAD • P.O. BOX 10669 •
LYNCHBURG, VA 24506-0669
HOME OFFICE: COLUMBUS, OHIO

[LOGO] NATIONWIDE
INSURANCE
Nationwide is on your side

July 11, 1994

Ms. Diane Holbrook
Rt 2, Box 191
Bealeton, VA 22712

Policy: 53MP 162-847

Dear Ms. Holbrook:

We regret we will be unable to renew your insurance policy.

This is required notice, then, your policy is nonrenewed at 12:01 a.m. 9/3/94.

We are unable to renew your protection because of a frequency of claims dated 2/11/94, 1/23/94, 1/15/94, and 11/19/91.

This advance notice should provide sufficient time to secure other coverage. Insurance companies sponsor the Virginia Property Insurance Association and you may apply for insurance under this plan. Any agent or broker can assist.

Because of the importance of this protection, we urge you to make other arrangements promptly.

Sincerely,

/s/ M. Turner

NATIONWIDE MUTUAL FIRE INSURANCE COMPANY
NATIONWIDE PROPERTY-CASUALTY INSURANCE COMPANY
(804) 237-7200

CW/b/MAT/vh/v256a/MA0611 45-11746

SPECIAL NOTICE:

Virginia Insurance Law provides that you may have your cancellation reviewed by the Commissioner of Insurance. Such request must be in writing to the Commissioner of Insurance, P O Box 1157, Richmond, Virginia 23209 and must be made within 10 days of the receipt of the enclosed notice.

SEE SECOND PAGE FOR IMPORTANT NOTICE TO VIRGINIA POLICYHOLDERS.

DEPOSITION
EXHIBIT
Holbrook #1

800 GRAVES MILL ROAD • P.O. BOX 10669 •
LYNCHBURG, VA 24506-0669
HOME OFFICE: COLUMBUS, OHIO

[LOGO] NATIONWIDE
INSURANCE
Nationwide is on your side

February 24, 1995

Diane Holbrook
13231 Marsh Road
Bealeton, VA 22712-9312

Policy: 53PU 003-798

Dear Ms. Holbrook:

We regret we will be unable to continue your Personal Umbrella Liability Policy. This is notice, then, your policy is cancelled effective 12:01 a.m. 4/20/95.

The reason for the termination is because not all liability limits are currently insured with Nationwide. This is a minimum requirement for a Personal Umbrella policy.

This advance notice should provide sufficient time to make other arrangements.

Sincerely,

/s/ M. Turner

NATIONWIDE MUTUAL INSURANCE COMPANY
NATIONWIDE MUTUAL FIRE INSURANCE COMPANY
(804) 237-7200

BF/MAT/vh/V278/FA028 45-11746

[An agent for Prudential was charged with misleading an Alabama couple about their policy. Their alleged loss: perhaps as much as $30,000. Yet the couple won $430,000 in compensatory damages. Punitive damages: $25 million. The case was settled in October for an undisclosed sum. Mrs. Holbrook's comments – When I received this letter, it took me awhile to know what they were talking about. See highlight in Personal Umbrella Policy. Also, see law in the books about misleading agent. This was published in Business Week Nov. 28, 1994.]

COPY OF TRANSCRIPT

VIRGINIA:

In the Circuit Court for Fauquier County

Diane L. Holbrook,

Plaintiff,

v. **At Law No. CL97000250-00**

Nationwide Mutual Insurance Company,

Defendant.

CONDENSED TRANSCRIPT

The Hearing held in the above-styled matter in the Circuit Court for Fauquier County, in the Courthouse thereof, Warrenton, Virginia, before the Honorable James H. Chamblin, Judge of said Court, on the 18th day of September, 1998, beginning at 9:15 a.m.

APPEARANCES

On Behalf of the Plaintiff:
Diane L. Holbrook, *Pro se*

On Behalf of the Defendant:
Lowry Jock Miller, Esquire
MILLER, MILLER, KEARNEY & GESCHICKTER, L.L.P.

County Court Reporters, Inc.

[1] HEARING

THE BAILIFF: All rise. Court's now in session. The Honorable Judge James H. Chamblin presiding. Be seated and come to order, please.

THE CLERK: Case with Diane L. Holbrook versus Nationwide Mutual Insurance Company. Ms. Holbrook appearing pro se. Mr. Miller for the Defendant. Court Reporter has been sworn.

THE COURT: Good morning, everybody.

MR. MILLER: Good morning.

MS. HOLBROOK: Good morning.

THE COURT: I need to, before we start this trial, to disclose to you that I am insured by Nationwide, the Defendant in this case, both my homeowners and my automobile insurance.

MS. HOLBROOK: Have you ever had a claim before?

THE COURT: We have something pending with them now because my wife, about a month ago, backed out of our driveway and hit a car across the street.

MS. HOLBROOK: Have they taken care of it in any way, shape, or form?

[2] THE COURT: The car has been repaired. That's all we really know, so I figure Nationwide took care of it.

MS. HOLBROOK: Is there another Judge then?

THE COURT: Not right now, no, ma'am.

MS. HOLBROOK: Would there be a continuance for later on? Plus I have a diversity of citizenship. I mean, I have this law right here. (WHEREUPON, the Court reviewed the document.)

THE COURT: Ma'am, I understand what you are doing here. Let's put this to the side for a minute. The issue right now is whether or not there is any objection to my presiding over this case. Ms. Holbrook?

MS. HOLBROOK: There may be a conflict of interest. Because you may be partial to the company as opposed to someone that is going through the system and did not recover anything. So there may be. You know.

THE COURT: Are you asking me to disqualify myself in this case?

MR. MILLER: Could I say something, Your Honor. Keep in mind, you did not want [3] Judge Robertson. You filed two or three times for him to recuse himself.

MS. HOLBROOK: Yes.

MR. MILLER: This is an entirely different Judge. This Judge happens to be insured, so . . .

MS. HOLBROOK: Is you being insured with this company going to have any effect in any way, shape, or form on your judgments of any kind?

THE COURT: I don't think so. No, ma'am. I just feel like it is something that I should bring to the attention of the parties in this case. Because I think both parties should know that.

MS. HOLBROOK: So you're being open and, I mean, if you found evidence, you are not going to turn around and avoid the law or do anything different. You're going to be fair with me, personally.

THE COURT: Yes, ma'am. I just feel like it's fair disclosure. It's something that probably the Defendant, Nationwide, would have more access to the information than you would. But maybe ultimately you could find out. I felt like I should bring it to your attention. Everybody has to have insurance. I just happen to have chosen Nationwide, not because of the company but because of the local agent. And this is [4] in Leesburg, not here in Warren. [Warrenton]

MS. HOLBROOK: So it would be a different agent?

THE COURT: Yes.

MS. HOLBROOK: So, different practices of a different agent?

THE COURT: Yes.

MR. MILLER: So you sort of have to tell him whether you agree or disagree with him being the judge today.

MS. HOLBROOK: Gosh. It kind of shocks my nerves that he's got policies with the . . . my question is, I have got a law and it has to do with the District Court and it states diversity of citizenship. So shouldn't this go to Federal Court as opposed to being in this Court, being transferred to Federal Court where it belongs?

THE COURT: Are you making a motion to transfer this case to a Federal Court?

MS. HOLBROOK: Yes, sir.

THE COURT: Do I understand . . . I looked at the file when I was over here on Wednesday, have you

filed a suit against Nationwide on the same matters in the Southern District of Florida, Federal U.S. District Court?

[5] MS. HOLBROOK: I filed for a transfer of this case to The Florida.

MR. MILLER: Your Honor, we have investigated that. She filled out a form which is a form that you fill out in order to file a suit. She's put that form in the file and given it to us. We sent people down to that court to find out if the suit has been filed and there has been no suit filed . . .

MS. HOLBROOK: I object.

MR. MILLER: Pardon?

MS. HOLBROOK: I object.

MR. MILLER: Did you file a suit?

MS. HOLBROOK: Yes, sir.

MR. MILLER: Have you served it on anyone?

MS. HOLBROOK: I just did it on August 28th.

[Referring to filing]

MR. MILLER: We checked before then. I don't know about that.

THE COURT: Without any prejudice whatsoever to your decision, Miss Holbrook, as to how you feel about me presiding in this case. It has always been my consistent policy that when litigation is filed in the State Court and in the Federal Court, and it involves the same issues, the same problems, that the Plaintiff [6] has got to

make a choice. You're not going to be able to litigate it in both places.

MS. HOLBROOK: I permanently live in Florida, and I prefer for it to be done in Florida. And I paid my $150 for filing it for this case to be transferred from this court to that court. I have a Judge whose name is Chief Davis down in Miami, he's the Chief Judge that's put on to the case.

MS. MILLER: Your Honor, I know nothing about this case in Florida. However, I do know about removal. There is no such thing as transfer. You may remove to the Federal Court. This case has been going on for over a year. It is way too late to remove, you must remove forthwith upon filing, upon service, upon this kind of a case. That in addition, this case, this Court has jurisdiction of the parties, this case has been . . . we've been to court a lot of times, we have gone to the Supreme Court of Virginia a number of times, the case is ready for trial today. They haven't even, to the best of my knowledge, served the thing in Florida. And I don't even know what that suit says down there . . .

MS. HOLBROOK: They were served . . .

THE COURT: Ms. Holbrook, wait a [7] minute. Let Mr. Miller finish. I'll certainly give you every opportunity, but let him finish, please.

MR. MILLER: This Court does not have the power, I don't believe, to transfer a case to the Federal Court. So a motion to you is not . . . is a motion that you don't have the power to transfer it. Now, the Federal Judge can allow or order it to be transferred, I believe that's the way it works. I've never gone to the State Court

Judge and said can we transfer it to the Federal Court. We go to the Federal Court and ask that it be removed to the Federal Court. So I think any request by her to do this is not within your jurisdiction to transfer to it, I think it is up to the Federal Court to decide that. Now, so far as an ongoing suit is concerned, I really don't . . . it's not been served. This case is ready to go. There can be concurrent jurisdiction on matters in different states and different courts that can be concurrent and whoever tries it first, basically, that's going to be the result of it. I have got a Declaratory Judgment going right now in Arizona and Culpepor at the same time. And I guess the way it's going to work is whoever reaches judgment first . . . and therefore, I would oppose transferring this or delaying this case at all.

THE COURT: Let's get back to the [8] primary issue, and that is whether or not there is any objection to my presiding over this case.

MS. HOLBROOK: I feel nervous about it.

THE COURT: Are you asking me to disqualify myself?

MS. HOLBROOK: I did put in . . . when I served the papers on August 20th, I did notify Nationwide on their served papers that the civil cover sheet, that it was going to Federal Court, that it is being transferred to Federal Court. So they have been notified of the change.

MR. MILLER: They haven't got it to me. This is in Florida and the 28th of August . . .

MS. HOLBROOK: Plus they have not answered

. . .

THE COURT: Wait.

MS. HOLBROOK: Plus they have not answered . . .

THE COURT: Excuse me, just a minute. Let's deal with the primary issue here. You are asking me to make a decision as a Judge in this case. But the threshold decision we've got to first make is whether or not I should continue to preside over this case. I told you that I don't feel I would be unfair, I [9] want to know how you feel about it, Miss Holbrook?

MS. HOLBROOK: I'm nervous about it.

THE COURT: Do you wish for me to disqualify myself?

MS. HOLBROOK: Not to disqualify.

THE COURT: All right, then we'll go on and decide this issue that we are arguing right now. You heard what Mr. Miller said, go ahead.

MS. HOLBROOK: These papers were not served until August 20th, 1998.

MR. MILLER: These, the Florida papers?

MS. HOLBROOK: No, the one from this Court. Because I requested not to have service at this time, back in . . .

MR. MILLER: This is a different issue than the Federal Court.

MS. HOLBROOK: Back in December 29th of '97.

THE COURT: One thing we're going to do is we're going to argue one issue at a time. I think what you were asking first is that this Court, the Circuit Court of Fauquier County transfer this case to the Southern District of Florida, U.S. District Court, [10] there. You are arguing something else about this case, about service in this case?

MS. HOLBROOK: Yes, sir. They have not answered the service that was . . . the service that was served to them on August 20th, 1998 was not answered within 21 days. So where is it, I wrote it down . . .

MR. MILLER: Your Honor.

THE COURT: Perhaps, maybe this would be of some help. Would you like to look at the Court file, the return of service on the sheriff in Lynchburg. It appears to me that what was served on August 20th was merely an undated, quote, to whom it may concern letter with attachment referred to therein. Would you all like to see the Court file in return to the sheriff? You all can approach if you'd like to take a look at it.

MS. HOLBROOK: What is this . . . proof of service. Yes, they were served on August 25th.

THE COURT: Is there a note?

MS. HOLBROOK: And they have not answered in 21 days; that is correct, that's what I'm saying. They have not answered, so they have defaulted.

THE COURT: But look at what it [11] was served, look what it says it was served upon.

MR. MILLER: Among other things that was served was an Amended Motion for Judgment which I filed an answer to many months ago. And a, also . . .

MS. HOLBROOK: And a Motion in Limine.

[Should have (written and quoted) "And a Motion in Limine" *to be* "And a Motion for Default" (lacked knowledge of definition).]

THE COURT: It's called Limine.

MS. HOLBROOK: Limine. My Motion in Limine, I got to locate it to be able to read off of that to you. The papers were served on the 20th. They've had 21 days to respond, there was no answer to it, so I [win] automatically. I got it over there in that pile somewhere, it's just taking . . . I'm just nervous. That was on top of the file.

THE COURT: I looked at the file when I was over here on Wednesday and there was an Order that allowed you leave to file an Amended Motion for Judgment, which you did. And then there was an answer filed to that Amended Motion for Judgment on January . . .

MS. HOLBROOK: Okay, the Orders I have been signing as seen and objected to.

THE COURT: But the Order was entered and it is an Order of this Court.

[12] MS. HOLBROOK: But, the Defendant wasn't served.

THE COURT: The Defendant is before the Court. The purpose of the service is just to get the Defendant before the Court. The Defendant was before the

Court upon the service of the Original Motion for Judgment.

MS. HOLBROOK: The Original Motion for Judgment was on 96-17. It was not on 97-250.

MR. MILLER: Well, Your Honor, that case was non-suited, the 96-17. This is . . .

THE CLERK: The computer shows that on December the 9th, Plaintiff filed Amended Motion by January the 5th, Amended Motion for Judgment was filed on 12-29-97. And answer to the Amended Motion of the Demurrer was filed on January the . . .

MR. MILLER: I can explain her problem, Your Honor.

THE COURT: Yes, sir.

MR. MILLER: Miss Holbrook has filed six or seven lawsuits in this Courthouse and this has been going on for about three years or four years. She filed another suit . . . this suit, last year, probably

* * *

CIVIL REMEDIES AND PROCEDURE

§ 8.01-380

Plaintiff has absolute right to one non-suit. – Under this section, a plaintiff has an absolute right to one nonsuit. The election is his and if he insists upon taking the nonsuit within the limitations imposed by this section, neither the trial court nor opposing counsel can prevent him from doing so. Nash v. Jewell, 227 Va. 230, 315 S.E.2d 825 (1984).

* * *

[19] on this list which you've just handed up. These other items have all been taken out of this case. They are not a part of this case.

MS. HOLBROOK: Until I have a final Order to be able to re-introduce it because I did ask for a first time non-suit and was not granted my first time non-suit on the other three cases. There is a law, it's called federal rules CIVPROC Rule 12B6 28USCA. A motion to dismiss for failure to state claim upon which relief may be granted. Complaint must be read in light most favorable to Plaintiff with every doubt resolved in Plaintiff's favor. Those . . . that law right there was disregarded in all three of those cases.

THE COURT: But Ma'am, those decisions have been made, and they are the law as far as this case is concerned. I can't change those.

MS. HOLBROOK: 8.01-380 entitles me to first time non-suit. And I was disallowed, but I was allowed by law.

THE COURT: That decision was made.

MR. MILLER: It was appealed to the Supreme Court and denied, all of those.

MS. HOLBROOK: Because I did not have a petition.

[20] THE COURT: That's a final Judgment. Miss Holbrook, would you like for me to stay this proceeding in this Court and you can pursue it in Florida, in Federal Court down in Miami or wherever you . . .

MS. HOLBROOK: If I could have a continuance to where I'm able to get it transferred or removal from [. . .] Federal Court in order to have it transferred down there, I would love to have that. Just to have a continuance in order for that to transpire.

THE COURT: Mr. Miller, I know you object.

MR. MILLER: Your Honor, I will say this, Your Honor. That Judge Robertson over the years has been very kind to this lady. These are the kind of motions he hears Motion Day after Motion Day. He has not awarded us one single dime of attorney's fees in this case. Because she's pro se. Now, to allow her to go down to Florida and create a disaster down there, like she has up here, it's going to cost my company thousands and thousands of dollars to defend such a thing. And we're going to have to . . . I know she will proceed with it anyway, whether you stay it or not, or whether there is a judgment here, she will proceed with it. But she has probably filed a similar suit that she [21] filed originally here down in Florida. Secondly, these actions, this action occurred in Fauquier County. This is her home, it was burglarized. All of the evidence is here, the police department is here, the property is here, the parties are here, everything is here. Now, to go to the state of Florida because she moved down there for her convenience means that we, and I'm an attorney who has been dealing with this two or three years, am going to have to retrain some lawyer down in Florida to do this whole case. This is totally unfair to stay this matter at this time. This case belongs here, it needs to be tried here, she's going to appeal it to the Supreme Court, and the Supreme Court is going to take whatever they want to do with it. And I would like to have the hearing held, the trial held, and let her do what she needs to do here. And she can do

whatever she wants to down there, but I would like to get this one over with. I think the Court has jurisdiction, the Court has the parties for it, she's ready to proceed and we ought to do it.

THE COURT: What is your . . .

MS. HOLBROOK: I do not feel that they have . . . it says law number 1332 [28 U.S.C.A. 1332] diversity of citizenship. District Courts shall have original jurisdiction of all civil cases where the matter being [22] controverted exceeds a settlement or value of $50,000 excluding of interest and costs and is between citizens of different states in which the citizen or subject of foreign state are additional parties. It also has one that says citizens of . . . there is four of them there. Nationwide is a foreign corporation. Statute 1332A3 clearly states that it should be in the Federal Courts, not in the Circuit Courts. It is just a matter of time before the whole thing is moved from here and sent there. And I would like to have a continuance until that has transpired because the Statute of Limitations have already been met here as opposed to having anything closed on it in case, because the Statute of Limitations is over with otherwise, so I do get a fair trial.

[At this time, I did not know Federal Court had five year Statute of Limitations and it was not over. I met their Statute of Limitations.]

THE COURT: Are you saying you want to pursue this in Florida?

MS. HOLBROOK: Yes, sir.

THE COURT: Is that what you are saying?

MS. HOLBROOK: Yes, sir.

THE COURT: I know of no jurisdiction in Florida that allows this Court to transfer to a Federal

Court. However, since you have filed in a Federal Court, I will stay this proceeding. There won't be anything further in this case.

[23] MS. HOLBROOK: There will be a continuance until the papers have been transferred?

THE COURT: Everything is stayed, everything in this case is just going to stop until somebody comes back before the Court where the circumstances have changed and asks this Court to do something.

MS. HOLBROOK: So it is like a continuance. In other words, it's held dormant and then if it's conducted down there, then that's the final stage, and if it's not conducted down there because it doesn't meet certain requirements to be in Federal Court, then I can come back here for a hearing to reopen it; right?

THE COURT: You can ask the court to go forward, yes, ma'am.

MS. HOLBROOK: So it doesn't close anything, it just puts it in limbo.

THE COURT: If that's the way you look at it, yes, ma'am. Mr. Miller, I'll note your exception to the Court's ruling.

MR. MILLER: I'm quite sure we'll be back later on. Your Honor, the . . .

MS. HOLBROOK: With all due respect, Your Honor, I really appreciate your honesty, I appreciate it a lot.

[24] THE COURT: Ma'am, I would encourage you wholeheartedly to find an attorney . . .

MS. HOLBROOK: That's what I want to do. It's a lot easier where you live than it is sending packages out out of state . . .

THE COURT: That's one reason . . . if you are in Florida, you might be nearer to attorneys . . .

MS. HOLBROOK: Walk in and out.

THE COURT: Go somewhere and get some help. Believe me, Ma'am, you need it in this case to understand what this case is all about and what's occurred in the past. Not even just in this case but in the other case.

MR. MILLER: Could we possibly make the Order up today and get it signed by the parties and get it stayed here . . .

THE COURT: Yes, sir.

MR. MILLER: . . . So that we don't have to come back to court again on this matter.

THE COURT: I want to tell the jury what happened so we can excuse them and after I do that if you all will remain I will prepare the Order, get the Clerk to type it up, and let you all look at it before I leave. How is that?

(WHEREUPON, the Hearing was concluded at 9:45 a.m.)

[I did not ask the Court to go forward. Lowry Miller did on his own with a different Judge!]

[25] CAPTION

The Hearing in the matter, on the date, and at the time and place set out on the title page hereof.

It was requested that the Hearing be taken by the reporter and that same be reduced to typewritten form.

IN THE
SUPREME COURT OF VIRGINIA
AT RICHMOND

Record No. _____

DIANE L. HOLBROOK,

Plaintiff,

v.

NATIONWIDE MUTUAL INSURANCE COMPANY,

Defendant.

MOTION FOR ACCELERATED RULING ON DEFENDANT'S MOTION TO DISMISS FOR LACK OF JURISDICTION

COMES NOW the defendant, Nationwide Mutual Insurance Company, hereinafter "Nationwide," by its attorney, Lowry J. Miller, Esquire, upon its motion under Rule 5:4 of the Rules of the Supreme Court of Virginia for an accelerated ruling on its motion to dismiss for lack of jurisdiction previously filed herein and states in support thereof as follows:

1. Diane L. Holbrook, hereinafter "Holbrook," is a *pro se* plaintiff in a civil action which was filed in the Circuit Court of Fauquier County. Holbrook, after several adverse rulings, appeared in person before the Circuit Court of Fauquier

* * *

Diane L. Holbrook
P.O. Box 1512
Hobe Sound, Florida 33475-1512
Telephone: 1 (561) 545-9793

President George W. Bush
Attn: Agency Liaison Room #592
The White House
Washington, D.C. 20502

Dear Chief of Commander:

Please have the right agency take care of these eight pages. I've got in contact with the Better Business, Consumer and Business, State Attorney Office, and even got a criminal Case # from the Sheriff of Port Saint Lucie County in Florida but the criminal case got closed because the Sheriff says that this case is Civil not Criminal.

History with Better Business Bureau:

Unsatisfactory
November, 1998 Returned by P.O. undeliverable

History with Consumer and Business –
Mrs. Ellen Mancina

3 cases

1. Refund
2. 1997 – Misstermeter Filed
3. 1998 – No Results

The correct agency can call me the first week in May unless our personnal appointment is then.

8 Documental Evidences Attach

Sincerely and Respectfully Yours,

/s/ Diane L. Holbrook

Diane L. Holbrook
Telephone: 1 (561) 545-9793

OFFICE OF THE
State Attorney
NINETEENTH JUDICIAL CIRCUIT OF FLORIDA
SERVING
INDIAN RIVER, MARTIN, OKEECHOBEE
AND ST. LUCIE COUNTIES

[SEAL]
Bruce H. Colton
State Attorney

415 South Second Street
Fort Pierce, Florida 34950
(561) 465-3000
Fax (561) 462-1218

March 16, 2000

Ms. Diane Holbrook
P.O. Box 1512
Hobe Sound, FL 33475-1512

Re: Scott A. Fagan

Dear Ms. Holbrook:

I have no way of assisting you obtain a refund from Mr. Fagan, based upon the information you have presented to this office. The problems with your case are as follows:

1. There is no adequate description reflected in a contract of the services to be rendered by Mr. Fagan. The word "Appeal," written on the receipt, does not provide enough information to substantiate a criminal prosecution.

2. The Consumer & Business Assistance Division handles cases concerning on-going and existing companies. This unit does not practice in the area of criminal law. As it appears Mr. Fagan is no longer doing business, there is no viable action I can take in this matter.

3. A civil case or action would likely prove fruitless, as there is no one to serve with a copy of the complaint. Even if you won your case and received a judgment, how would you collect your money?

The practicing of law without a license is a criminal matter, but your complaint lacks sufficiency, in my legal opinion, to support the filing of a criminal charge, even if Mr. Fagan could be found. The proper steps to determine if a crime has occurred, is to file a complaint with law enforcement, in this case, the St. Lucie County Sheriff's Office. I am sorry I cannot assist you. By the way, Mr. Fagan was arrested within the past several years on a worthless check charge.

Sincerely,

/s/ Ellen Mancini
Ellen Mancini
Assistant State Attorney

Case No.: _____
Date Received: _____
OFFICE USE ONLY

AFFIDAVIT

COMPANY OR/AND PERSON COMPLAINING AGAINST: Scott A. Fagan
A Paralegal of Florida

BEFORE ME, the undersigned authority, this day personally appeared Mr./Mrs./Ms. Diane Holbrook
(Print or type your name)

P O Box 1512
(address)

Hobe Sound, Florida 33475-1512
(city, state, zip)

(home phone) (561) 545-9793 (work phone) N/A
(age) 48

1. I have a complaint against Scott A. Fagan or/and
(person or company name & address)

A Paralegal of Florida, 5200 Turnpike Feeder Road, Fort Pierce, FL 34951

The telephone number of this person or company is
(561) 465-8376
1 (877) 676-4672
1 (877) 727-2529

2. I first learned of the above-named person or company through (telephone, newspaper, etc.) telephone-yellow pages. See Attached copy of yellow page advertised in.

3. Clearly and in detail, please state your complaint below. Describe events in the same order in which they occurred, and include dates, times and the names of individuals you dealt with, if possible. Include in this section, a description of the goods, products, or services you purchased, rented or for which you were solicited, and report in as much detail as possible any statements that were made to you regarding the goods or services.

On May 10, 1999, I paid-in-full for all requirements done, for doing Appeal Brief in its entirety with all required sets, everything to be mailed to court and parties for $320.00 by May 21, 1999 in the 11th Circuit Court of Appeals in Atlanta, Georgia and to Defendant's Counsel in Miami, Florida. On May 19, 1999 about 9:08 P.M., I received a Fax (see attached Copy). When I got back home, I called Scott Fagan. He refused full refund. Later, I made a trip to Fort Pierce with a friend Pat as a witness and had Sheriff C. Bates at his front door to get my belongings and again asked for refund because job was not done at all. He (Scott) refused any refund at all in front of Pat and C. Bates the Deputy Sheriff. Got my belongings in box, opened box and Deputy Sheriff acknowledged that there is no Appeal Brief in box and he knows what a Brief looks like.

Question: Was AAA Paralegal and Assisted Legal Services owned or operated by Scott Fagan? Both of these companies are disconnected.

Florida Law

The company must pay you within 20 days once you agree upon an amount for repair or replacement of your auto and you sign a settlement agreement. If *not*, you may collect 12-percent interest per year on the amount of the claim from the date of the agreement. Once the company receives proper written notification of the amount of your PIP loss, they must pay you or the service provider within 30 days. If *not*, you may collect 10-percent interest per year on the amount of your loss

until you receive payment. Make sure the insurance company agrees to pay before you start repairs.

* * *

May-19-99 21:08

[Handwritten Note Faxed To Holbrook]

Diane

Please send me some additional funds as to insure my complete attention to your project tomorrow.

Scott

He cashed the check and did not do the work at all! Note receipt for paid-in-full. Sheriff was there for me to get all my papers after deadline passed. I had done it myself and got it in by Rules allowed. He faxed about 2 days before deadline to con me.

He changes companies names and stays at same address.

"WELCOME HOME"

DIANE HOLBROOK 01-97
P.O. Box 1512
Hobe Sound, Fl 33475-1512

191
63-1114/670 10

5/10 19 99

PAY TO THE ORDER OF A Paralegal of Florida $320.00/100

Three hundred twenty dollars & 00/100 DOLLARS

RIVERSIDE NATIONAL BANK (OF FLORIDA) 900 S. Federal Hwy. Stuart, Florida 34994

Hometown Plus Account

FOR Paid-in-Full (all requirements done and mailed to Court & parties Diane Holbrook

⑆067011142⑆ 10 0097545⑈08 0191 ⑈000003 2000⑈

A Paralegal of Florida
Pay to the Order of: Scott A. Fagan

CHECK $320.00
05/11/99 3:00P ND
0005 M6 0504 # 3
100097545O8
00000191

RECEIPT

DATE 5/10/99 No. 371510

RECEIVED FROM Diane Holbrook $320.00

three hundred twenty & 00/100 DOLLARS

FOR RENT
FOR Appeal

ACCOUNT	320
PAYMENT	320
BAL. DUE	0

CASH ☒ CHECK ○ MONEY ORDER

FROM OH TO FF

BY

2701

Scott A. Fagan
Certified Legal Technician

A Paralegal of Florida

Legal Document Preparation
Bankruptcy, Divorce, Adoption, Name Change
Lawsuits, Wills, Custody, etc.

Serving Martin, St. Lucie, Indian River, & Palm Beach Counties

5200 Turnpike Feeder Rd.
Ft. Pierce, FL 34951
(Lakewood Park Plaza)

1-877-676-4672
1-877-727-2529

Ph. 561-465-8378
Fax 561-465-4288

SHERIFF ST. LUCIE COUNTY

(561) 462-3320
(561) 461-7300

4700 West Midway Road
Fort Pierce, Florida 34981

SHERIFF
ROBERT C. "Bobby" KNOWLES
Uniform Patrol Division

C. BATES

Deputy Sheriff

BEST AVAILABLE COPY

[Yellow Pages]

Paralegals

AAA Paralegal 3361 S U S Highway 1 Ft Pc.....595-5106

[Noticed Same Address as A Paralegal of Fla.]

A PARALEGAL OF FLORIDA

DIVORCE • BANKRUPTCY • PATERNITY
NAME CHANGE • ADOPTIONS • CHILD SUPPORT

[Sounds Great]

Certified & Licensed

[Pd-In-Full]

3361 S US Hwy 1 Ft Pc 465-8376

[Per Demand]

ACCESS PARALEGALS

[Left Message with phone # Did Not Return Call.]

In Business Since 1989

Incorporations • Divorce
Legal Documents Prepared

10075 Federal Hwy #144 Pt St Lucie 334-4000

Assisted Legal Services

[Notice Same Address As "A Paralegal of Fla."]

3361 S US Hwy 1 Ft Pc [Called-Disconnect] 465-8017

Legal Aide-Paralegal Service [Called-Disconnect] 336-8260

DIANE L. HOLBROOK v. NATIONWIDE MUTUAL INSURANCE COMPANY, A FOREIGN CORPORATION

APPEAL NO. 00-10141-CC

STATEMENT OF ISSUES
MERITING EN BANC CONSIDERATION

I. The Panel Opinion Contains A Material Factual Mistake About What My Brief Primarily Involved Starting From The Beginning And Ending Before The Panel Started In Referring To February 2, 1999 On

II. The Panel Opinion Shows Miscommunication By Not Referring To Plaintiff's Notice Of Clarification Regarding Motion For Extensions Issues (i.e. Preparing And Filing A Second Amended Complaint May Not Be Necessary)

[1]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

DIANE L. HOLBROOK, Plaintiff, v. NATIONWIDE MUTUAL INSURANCE COMPANY, a FOREIGN CORPORATION, Defendant.	CASE NO. 98-14246-CIV-DAVIS MAGISTRATE JUDGE: LYNCH MOTION TO RECUSE

COMES NOW Diane L. Holbrook, the plaintiff, and respectfully states:

1. That Raoul C. Cantero, III, the defendant's counsel was the law clerk to Honorable Edward B. Davis in the United States District Court, Southern District of Florida in Miami, Florida. See Attached Exhibit I.

2. Since Raoul C. Cantero, III, the defendant's counsel was employed in the Miami, Florida Division, I am requesting an assigned at random to the judges of the West Palm Beach District Court because of the following reasons stated:

a. Court ORDER signed March 18, 1999 clearly states that the Defendant and Plaintiff both filed on the same day of which I agree with. However, the same Order with Clerical mistake of records and errors shows both filed on March 4, 1999. See Attached Exhibit J. I was clearly at the United States District Court in Miami, Florida on March 5, 1999 and I was also in the Records Room on second floor.

b. On the crucial time for filing and Rule 5.2D. Service of pleadings and papers states "Service by delivery after 5:00 p.m. shall be deemed to have been made on the next business day." Therefore, under Rule 60(a) Relief from ORDER due to clerical mistakes and a new previously presented Order to go with Motion to Correct ORDER and Grant judgment by Default of Naturalization. Extension of Time had expired on March 4, 1999 within which to file its response and March 5, 1999 was too late resulting in default judgment should have been granted. Crucial time for filing should not be shown the day before or even the day after actual filing because of results affecting final ORDERS.

c. The Honorable Judge's Secretary answered the door on the eleventh floor and directed me to the Clerk of Filing to go through with my papers on March 5, 1999. She may have kept record as minutes of daily occurrence.

d. With papers must be filed in the office where the Judge is located because that is where the file stays, I am also hand delivering to the court, and Raoul C. Cantero, III, the defendant's counsel was not employed in the West Palm Beach, Florida Division, are primary reasons for file to be transferred to United States District Court Southern District of Florida in West Palm Beach.

WHEREFORE, your plaintiff Diane L. Holbrook prays that the Honorable Chief Judge Edward B. Davis recuse himself from all further matters pertaining to these proceedings against Diane L. Holbrook, and that in the place and [in]stead of the Honorable Judge another

Federal Court Judge from West Palm Beach Division be assigned for these proceedings.

Respectfully Submitted.

Diane L. Holbrook

/s/ Diane L. Holbrook
/s/ Diane L. Holbrook

Diane L. Holbrook
Plaintiff – Pro Se
PO Box 1512
Hobe Sound, Florida 33475-1512
Phone: 561-545-9793

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by certified mail this 5th day of April, 1999 to:

Eric N. Assouline, Esq./Raoul G. Cantero, [III,] Esq.
Adorno & Zeder, P.A.
2601 South Bayshore Drive, Suite 1600
Miami, Florida 33133

/s/ Diane L. Holbrook
/s/ Diane L. Holbrook
Diane L. Holbrook

PROFESSIONAL BIOGRAPHIES

ADORNO & ZEDER

A PROFESSIONAL ASSOCIATION

SUITE 1600, 2601 SOUTH BAYSHORE DRIVE
MIAMI, FLORIDA 33133

* * *

RAOUL G. CANTERO, III, born Madrid, Spain, August 1, 1960; admitted to bar, 1986, Florida. *Education:* Florida State University (B.A., summa cum laude, 1982); Harvard University (J.D., cum laude, 1985), Phi Beta Kappa; Phi Kappa Phi. Fulbright Scholar, 1987, Law Clerk to Honorable Edward B. Davis, United States District Court, Southern District of Florida, 1986-1987. Member, Planning and Zoning Board, City of Coral Gables. Member, Board of Directors, Legal Services of Greater Miami, Inc. *Member:* Dade County Bar Association; The Florida Bar (Member, Appellate Rules Committee); Catholic Lawyers Guild; Cuban-American Bar Associations. ***LANGUAGES:*** Spanish.

EXHIBIT I

In the United States District Court
for the Southern District of Florida

Proceedings include all events. APPEAL
2:98cv14246 Holbrook v. Nationwide Mutual INTAPP

4/7/99 20 NOTICE OF INTERLOCUTORY APPEAL by Diane L. Holbrook of [18-1] order. EOD Date: 03/24/99; **Filing Fee: $105.00; Receipt #:800321**; Copies to USCA and Counsel of Record. (ga) [Entry date 04/09/99]

4/12/99 21 ORDER denying [19-1] motion for recusal of district judge (signed by Judge Edward B. Davis on 4/10/99) CCAP (aa) [Entry date 04/13/99]

4/12/99 22 ORDER TO SHOW CAUSE The plaintiff shall have 10 days from the date stamped on this order to show cause why the Defendant's Motion to Dismiss, Motion to Strike, Motion for Definite Statement should not be granted for plaintiff's failure to comply with Rule 7.1C of the Local Rules (signed by Judge Edward B. Davis on 4/10/99) CCAP (aa) [Entry date 04/13/99]

4/13/99 23 NOTICE of Unavailability from 5/10/99 through 6/18/99 by Diane L. Holbrook (aa) [Entry date 04/14/99]

4/13/99 24 NOTICE OF INTERLOCUTORY APPEAL by Diane L. Holbrook of [15-1] order. EOD Date: 02/25/99; **Filing Fee: $FEE NOT PAID**;; Copies to USCA and Counsel of Record. (ga) [Entry date 04/15/99]

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

APPEAL CASE NO. :00-10141-CC

DIANE L. HOLBROOK, Plaintiff, v. NATIONWIDE MUTUAL INSURANCE COMPANY, a FOREIGN CORPORATION, Defendant.	DC DKT NO.: 98-14246 CV-EBD MOTION TO REINSTATE APPEAL PROCESS WITH EVIDENCES SHOWING GOOD CAUSE

COMES NOW Diane L. Holbrook, the plaintiff/Pro Se, and moves this Honorable Court for reinstatement Appeal process with evidences showing good cause as follows:

1. On February 23, 2000, Plaintiff hired Racin & Boncek, P.A. law firm to do complete Appeal and final judgment from 11th Circuit United States Court of Appeals regarding appeal issues only. See attached Agreement For Representation.

2. In May, 2000, Plaintiff talked to Court Of Appeals Clerk who informed Plaintiff that there was no record of Counsel and records show that Plaintiff has always been Pro Se to date. Counselor did not notify record of Counsel and Certificate of Interested Persons And Corporate Disclosure Statement for requirements for record.

3. Pro Se Appellant's failure to comply with formal requirements for Appellate Briefs did not justify dismissal of appeal in civil rights case. F.R.A.P. Rule 28, 28 U.S.C.A.; U.S.Ct. of App. 9th Cir. Rule 13-1 et seq., 28 U.S.C.A.; 42

U.S.C.A. § 1983. See attached ORDER states ENTRY OF DISMISSAL because appellant has failed to file the record excerpts.

4. Plaintiff called Lawyers Membership Record and Legal Departments on May 5, 2000 and discovered as follows:

a) Edward Boncek Lic. No. 58701 is not active as of April 3, 2000 because of Disciplinary resigned.

b) John Author Racin Lic. No. 45624 has 4 separate cases with a case pending Supreme Court and 3 more on there way for Disciplinary actions.

5. Racin & Boncek, P.A. law firm cashed out $5,300.00 of my written checks to them.

6. Clarence Maddox, Court Administrator/Clerk of Court in Miami received a letter from me on May 24, 2000 and I've waited 14 days for response or reply.

This and for the foregoing reasons the Pro Se Plaintiff/Appellant, Diane L. Holbrook, prays that this Court will reinstate Appeal process by reversing the ORDER of Entry Of Dismissal and process the complete package of Brief and Record Excerpts enclosed with this mailing. See Exhibit A and Exhibit B attached.

Respectfully Submitted,

Diane L. Holbrook

/s/ Diane L. Holbrook
Diane L. Holbrook
Plaintiff Pro Se Appellant
P O Box 1512
Hobe Sound, Florida 33475-1512
Telephone: 561-545-9793

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by certified mail this 8th day of June, 2000 to:

Eric N. Assouline, Esq./Raoul G. Cantero, III, Esq./
ADORNO & ZEDER, P.A. Natalie J. Carlos, Esq.
2601 South Bayshore Drive, Suite 1600
Miami, Florida 33133

/s/ Diane L. Holbrook
Diane L. Holbrook

Diane L. Holbrook
P.O. Box 1512
Hobe Sound FL 33475-1512

June 28, 2000

RE: 00-10141-CC Diane L. Holbrook v. Nationwide Mutual Ins. Co.

DC DKT NO.: 98-14246 CV-EBD

CC: Diane L. Holbrook

CC: Raoul G. Cantero III

CC: Clarence Maddox

CC: Eric Nissim Assouline

CC: Administrative File

United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

In Replying Give Number Of Case And Names of Parties

June 28, 2000

MEMORANDUM TO COUNSEL OR PARTIES

RE: 00-10141-CC Diane L. Holbrook v. Nationwide Mutual Ins. Co.
DC DKT NO.: 98-14246 CV-EBD

The following action has been taken in the referenced case:

The enclosed order has been ENTERED.

APPELLEE'S BRIEF IS DUE 30 DAYS FROM THE DATE OF THIS ORDER

(JULY 28, 2000).

ENCLOSED IS THE APPELLANT'S BRIEF.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Jenifer Alexander
(404) 335-6172

MOT-2 [1999]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 00-10141-CC

(Filed: June 28, 2000)

DIANE L. HOLBROOK,

Plaintiff-Appellant,

versus

NATIONWIDE MUTUAL INSURANCE COMPANY, a Foreign Corporation
C/O Robert CiWetzel, Esq. Registered Agent,
800 Graves Mill Road, P.O. Box 10669,
Lynchburg, Virginia,

Defendant-Appellee.

On Appeal from the United States District Court
for the Southern District of Florida

ORDER:

Appellant's "Motion to Reinstate" her appeal is GRANTED

/s/ [Illegible]
UNITED STATES CIRCUIT JUDGE

Diane L. Holbrook
P O Box 1512
Hobe Sound, Florida 33475-1512
Telephone: 1 (561) 545-9793

PRESIDENT George W. Bush
Attn: Agency Liaison Room #592
The White House
Washington, D.C. 20502

Dear Chief Of Commander;

I'm requesting an appointment to see you personally in May, 2001 being before June 18, 2001 deadline for me to file and pay filing fees to the United States Supreme Court in Washington, D.C. in hopes that you will have my case be one of the 85 chosen cases to be trial and hear by the Supreme Court Judges. I am a Pro-Se as a Plaintiff against an Insurance Company who, by law and rules of the lower court, had won against the Insurance Company over two years ago! The Supreme Court reviews about 10,000 cases a year and only 85 are chosen. It would be injustice against me to not be one of the 85 chosen ones. It is a District Court clerical error resulting into a chain reaction of occurrences. Furthermore, I do not have an attorney and Lowry Jock Miller has a Brian M. Madden, Esquire listed to appear in the Circuit Court of Fauquier County on May 8th, 2001 as my attorney whom I do not have a contract with and don't know what he looks like. Need to get this out fast. We'll talk later and hopefully all these documental evidences will encourage you to Order the Supreme Court to have me picked as one of the 85 Cases to be heard even though I'm Pro-Se. "EQUAL JUSTICE UNDER LAW" is engraved over the doors of the Supreme Court in marble. You

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 98-14246-CIV-MOORE

DIANE L. HOLBROOK,

Plaintiff,

vs.

NATIONWIDE MUTUAL INSURANCE COMPANY,

Defendant. /

ORDER OF REFERENCE TO MAGISTRATE

(Filed Jun. 4, 2001)

PURSUANT to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida, the above-captioned Cause is referred to United States Magistrate Judge Lynch to take all necessary and proper action as required by law with respect to Plaintiff's Rule 60(a) Motion, filed May 15, 2001.

DONE AND ORDERED in Chambers at Miami, Florida, this 31st day of May, 2001.

/s/ K. Michael Moore
K. MICHAEL MOORE
UNITED STATES
DISTRICT JUDGE

copies provided:

United States Magistrate Judge Lynch

Diane Holbrook, *pro se*
PO Box 1512
Hobe Sound, FL 33475

Raoul G. Cantero III, Esq., Counsel for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

DIANE L. HOLBROOK,
Plaintiff,

CASE NO. 98-14246-CIV-MOORE

vs.

NATIONWIDE MUTUAL INSURANCE COMPANY,

Defendant. /

ORDER ON PLAINTIFF'S RULE 60(a) MOTION (DE #58)

(Filed Jun. 6, 2001)

THIS CAUSE having come on to be heard upon the aforementioned Motion, and this Court having reviewed the Motion, and noting that this case was closed and final judgment entered on December 15, 1999, and further noting that Plaintiff filed an appeal with the Eleventh Circuit Court of Appeals, and further noting that on January 19, 2001 the Eleventh Circuit affirmed the judgment of this Court, and further noting that on April 9, 2001 the Eleventh Circuit issued its mandate and denied Plaintiff's motion for a stay of the issuance of mandate pending petition for writ of certiorari, and being otherwise advised in the premises, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Rule 60(a) Motion is **DENIED**.

DONE AND ORDERED in Chambers at Fort Pierce, Florida, this 6th day of June, 2001.

/s/ Frank J. Lynch, Jr.
FRANK J. LYNCH, JR.
UNITED STATES
MAGISTRATE JUDGE

cc: Diane L. Holbrook, Pro Se
Raoul G. Cantero, Esq.

IN THE

SUPREME COURT OF THE UNITED STATES

DIANE L. HOLBROOK, Petitioner,	)	
v.	)	No.
NATIONWIDE MUTUAL INSURANCE COMPANY, A FOREIGN CORPORATION, Respondents.	)	

CERTIFICATE OF SERVICE

This is to certify that today, October 25, 2001, I delivered (mailed), in quantities itemized, copies of the PETITION FOR REHEARING (1 volume) in the above-entitled matter to the following counsel of record:

(file 40 copies)
(FILED BY HAND DELIVERY)

3 copies to:
Raoul G. Cantero, III, Esq.
Eric N. Assouline, Esq.
Natalie J. Carlos
Adorno & Zeder, P.A.
2601 South Bayshore Drive
Suite 1600
Miami, Florida 33133-5413
(305) 858-5555
(MAILED FIRST CLASS)

3 copies to:
Clarence Maddox
Clerk of Court,
Court Administration
U.S. District Court
Federal Courthouse Square
301 North Miami Avenue
Miami, Florida 33128
(MAILED FIRST CLASS)

3 copies to:
Lowry J. Miller
Miller, Miller, Kearney
& Geschickter, LLP
10400 Eaton Place
Suite 312
Fairfax, Virginia 22030
(703) 218-1300
(MAILED FIRST CLASS)

✓Remaining copies to: (6)
Diane L. Holbrook
P.O. Box 1512
Hobe Sound, Florida
33475-1512
(561) 545-9793

THIEL
PRESS

1319 Naylor Court, N.W.
(at 10th & "O" Streets)
Washington, D.C. 20001
(202) 328-3286

By: /s/ Roger Thiel

Subscribed to and sworn before me this ___ day of ___, 19___.

_____ Notary Public.

My commission expires: _____

Diane L. Holbrook
P. O. Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (561) 545-9793

December 7, 2001

Attention: Yvonne Cedeno, Court Clerk's
Operations Supervisor
United States District Court
Federal Courthouse Square
301 North Miami Avenue
Miami, Florida 33128-7788

Diane L. Holbrook v. Nationwide Mutual Insurance
Company, a Foreign Corporation

Case No.: 98-14246-CIV-MOORE (was EBD)
Appeal Case No.: 00-10141-CC

Dear Yvonne Cedeno:

There is a clerical mistake on record arising from oversight, See January 29, 1999 #8 and also see January 19, 1999 #5 and January 19, 1999 #6. Pursuant to Rule 60(a) with Request To Clerk To Enter Default after correction has been made upon record. Please also notice that on August 27, 1999, the Defendant, Nationwide Mutual Insurance Company, a Foreign Corporation in Paragraph 1. only, clearly agrees with Plaintiff, Diane L. Holbrook that they were served on December 21, 1998 and not on January 12, 1999 as the record indicates. With both sides in agreement in writing and also signed by the Defendant themself and states in Procedural History by Defendant with all attachments contained as APPENDIXs within enclosed Petition For A Writ Of Certiorari to this letter. Plaintiff is asking for the mistake to be corrected by this Court pursuant to Rule 60(a) and also to Rule 55(a) to be entered in default of naturalization because the motion to

extend time was presented to this Court after time expired and after Default Judgment against Defendant by Diane L. Holbrook, Plaintiff. This and for the foregoing reasons the Plaintiff, Diane L. Holbrook, prays that this Court will correct and issue thru naturalization by laws provided within to allow the Plaintiff to Reinstate in the Appeal process with corrected records to reverse and receive the entitled to Default Judgment against the Defendant.

Respectfully submitted,

/s/ Diane L. Holbrook

Diane L. Holbrook
Diane L. Holbrook – Plaintiff
P. O. Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (561) 545-9793

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Miami, Fl 33131

[LOGO]

One Biscayne Boulevard
2 South Biscayne Boulevard, Suite 2700
Miami, Fl 33131
PH: (305) 530-4491

Diane L. Holbrook
P.O. Box 1512
Hobe Sound, FL 33475-1512

Re: Correspondence

Dear Ms. Holbrook:

We have received your inquiry of pro se discrimination:

EEOC has authority to investigate complaints of employment discrimination based on race, color, religion, sex, age, national origin or disability against certain employers, employment agencies and labor organizations.

Your letter indicates that the situation you describe is not covered by the laws we enforce, therefore we have no authority to handle the matter you raised.

Your inquiry has been examined for possible referral to another source of assistance. However, we are unable to identify another source which we believe would be assistance to you. This does not mean that there is no governmental or private agency which could assist you, but we are not aware of any based on the information you provided.

We regret that we are unable to be of assistance to you in this matter.

Sincerely,

/s/ Susan Diaz
Susan Diaz
Investigator

5/21/02
Date

ACLU

AMERICAN CIVIL LIBERTIES UNION OF FLORIDA

April 30, 2002

Complaint #02-03-0060

Diane Holbrook
P.O. Box 1512
Hobe Sound, Florida 33475-1512

Dear Ms. Holbrook,

Thank you for contacting the American Civil Liberties Union of Florida (ACLU). We have carefully reviewed your recent request, and regret to inform you that we are unable to offer you legal assistance.

In declining to represent you the ACLU is not passing judgment on the merits of your case. We suggest that you contact a private attorney. We understand how difficult it can be to obtain legal counsel. The Florida Bar Association Lawyer Referral Service can direct you to an appropriate attorney. You may contact the Lawyer Referral Service by calling 1-800-342-8011.

Once again, thank you for writing to the ACLU of Florida. We wish you success in resolving your difficulties.

Sincerely,

/s/ S Brion
Sophie Brion
Intake Coordinator

Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

October 14, 2003

Attention: Carey Codd
WPEC
1100 Fairfield Drive
West Palm Beach, Florida 33407

Dear Carey Codd (the Court Reporter)

Per our telephone conversation on October 13, 2003, I've enclosed a copy of Supreme Court of the United States Petition for Writ of Certiorari pertaining to receiving positive Media coverage behind me all the way before October 31, 2003 deadline of filing in the Court for RE-HEARING!

A copy of the October 6, 2003 letter of denied signed by William K. Suter, Clerk of the Court does not give reasons why. I called (202) 479-3011 on the date I received this letter and left message with my address and telephone number requesting reasons to deny and asking why denied when County Court verses Federal Court was an issue of question of jurisdiction pertaining to 28 U.S.C.A. § 1337. To this moment, he has not personally returned my call. I'm in great immediate need of a positive Media supporting me all the way from a very professional, very well addressed excellent presentation giver to the Media like yourself!

Hopefully, everything that you promised me will have so far been completed to be able to proceed forward by

televise as the next step. Please keep me in contact of your progress and good luck!!

Sincerely Yours,

/s/ Diane L. Holbrook
Diane L. Holbrook
Telephone: (772) 545-9793

P. S. I'm an afternoon person.

Diane L. Holbrook
P O Box 1512
Hobe Sound, Florida 33475-1512
Telephone: 1 (561) 545-9793

President George W. Bush
Attn: Agency Liaison Room #592
The White House
Washington D. C. 20502

Dear ~~Chief Of Commander~~; Commander and Chief;

I'm requesting an appointment to see you personally about the injustice within the Judiciary and Judicial system towards Pro-Se as plaintiff within the court system.

Within this folder is documental evidences and telephone records of some of the things that transpired on my husband and his brother's death.

VERY VERY BRIEF:

1. Lowry Jock Miller has Nationwide Insurance Co. on retainer.

2. Lowry Jock Miller took Lisa Dutcher AKA Lisa Holbrook as a plaintiff corresponding with Nationwide Insurance Co..

3. Lowry Jock Miller's close attorney friend is Robin C. Gulick and according to my telephone notes of exact transpired in general conversations, Lowry Jock Miller took care of his bill to be my husband's administrator.

4. Trooper indicated to Rose Snidow that Dale (my brother-in law) driving. My sister Denise took telephone conversations at the very beginning because I was distraught over my husband and brother-in law's death.

5. Fauquier Hospital had my husband as John Doe. The State Trooper who was in charge of an accident at the

same location back in the end of October, 1991 and also never seen or knew my husband or his brother identified the bodies. We have no relatives who live in Virginia. To make a long story of events short. The Chief Medical Examiner had the wrong bodies and was contacted personally by me as well as the insurance company and thru the court system as you can see by telephone records of which some of them are enclosed and COUNTY COURT REPORTERS, INC.. Nothing was done about it from insurance company, attorneys and the presiding Judge William Shore Robertson himself. I went into the Court System Pro-Se (representing myself) within a timely matter before the statute ran out.

6. My Motion For Judgment was very simular to Lowry Jock Miller's Motion For Judgment for the exception of that Dale was driving as per the Trooper assigned to the case at the very beginning. Lowry Jock Miller immediately tried to demurr my case and then dismiss. Exhibits of documents shows how he illegally got it dismissed with Judge William Shore Robertson's help by taking the administrator off in the middle of litigation.

7. I have no closure of my husband's death!!! It has been over seven years and by law he is declared dead. You are the only one who can see justice thru and make a point of law that this never ever happens to a person who represents themself again!

38 Documental Exhibits attach

Is it possible to have a personal appointment in May, 2001 or ASAP!!!!

Respectfully and
Sincerely Yours

/s/ Diane L. Holbrook
Diane L. Holbrook
Telephone: 1 (561) 545-9793

Lowry Jock Miller received $25,000.00 as a settlement. ($6,500 for him)

[See Sept. 2, 1993, whereas Lowry Miller lost the case and owed for sanctions. His client on retainer, Nationwide Mutual Insurance Company, (conflict of interest with his representation Adm'r of the Estate of Dale B. Holbrook) got a settlement reward for a case he lost and owed sanctions on.]

_Certificate_of_Service_

I hereby certify that a true and correct copy to prosecute appeal was handed on May 21, 1997 to:

Miller, Miller, Kearney & Geschickter, LLP
10400 Eaton Place, Suite 312
Fairfax, Virginia 22030

in the Circuit Court of Fauquier County

/s/ Diane L. Holbrook
Diane L. Holbrook

[LOGO]

U. S. Department of Justice
Civil Division

Washington, D.C. 20530

MAY 23 2001

Ms. Diane L. Holbrook
P.O. Box 1512
Hobe Sound, FL 33475-1512

Dear Ms. Holbrook:

Your letter to President Bush of April 25, 2001, regarding your complaint against the Nationwide Mutual Insurance Company has been referred to the Civil Division, Department of Justice for response. Unfortunately, the demands on the President as he works for a better America make it hard for him to meet with everyone he wishes. We apologize for any inconvenience our delay in responding may have caused.

The United States Department of Justice, as the federal agency representing the United States government, cannot provide legal advice to or represent private individuals, except under certain limited conditions, which are not present in this instance. Under our Constitution, the Judicial Branch is separate and independent from the Executive Branch. The Department of Justice, as part of the Executive Branch of the United States Government, has no authority over the judicial branch's handling of cases. We suggest that you continue to seek private counsel or contact the agency listed below for advice and assistance:

Broward County Bar Association
1051 S.E. Third Ave.
Ft. Lauderdale, FL 33316
Cynthia R. White, Director
Phone: (954) 764-8040
Fax: (954) 764-8060

An alternative would be to contact a local law school which has a clinical program.

We hope this information is helpful and regret we cannot assist you further.

Sincerely,

/s/ [Illegible]
COMMUNICATIONS OFFICE
CIVIL DIVISION

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

CARLIN T. HUNTER, Adm'r. of the Estate of DALE B. HOLBROOK,	)	
Plaintiff,	)	
v.	)	
ROBIN C. GULICK, Adm'r. of the Estate of EDWARD JESSE HOLBROOK,	)	Law No. CL-92-306
Defendant.	)	

MOTION TO DISMISS
FOR FAILURE TO MAKE DISCOVERY
AND
MOTION FOR SANCTIONS

(Filed Sep. 2, 1993)

COMES NOW the defendant, by counsel, and moves this Court for an Order dismissing this case for failure to make discovery and for an Order awarding sanctions for the filing of this Motion, and for his reasons states as follows:

1. The attached Motion to Compel Production of Certain Documents was filed and noticed for Motions Day on August 10, 1993.

2. The day prior to that date, counsel for the defendant spoke with counsel for the plaintiff and was promised a response to the production request.

3. Pursuant to that understanding and representation of plaintiff's counsel, the Motion was taken off the docket and an Order was forwarded to plaintiff's counsel on August 16, 1993. To this date, there has been no response to that Motion despite repeated attempts to contact plaintiff's counsel.

In addition, defense counsel has requested various deposition dates for taking of plaintiff's experts. Plaintiff's counsel has not taken any steps toward obtaining any convenient dates.

There is a discovery cut-off of September 20, 1993, in this case. In light of plaintiff's not providing the documents requested within the required period of time, the defendant is greatly prejudiced in the defense of this action. For these reasons the defendant would move the Court for an Order dismissing this case for failure to make discovery, and also request the Court award sanctions for having to file and argue this Motion.

ROBIN C. GULICK
Adm'r. of the Estate of
EDWARD JESSE HOLBROOK
By Counsel

SLENKER, BRANDT, JENNINGS
& JOHNSTON

By: /s/ Joseph D. Roberts
Joseph D. Roberts
VA Bar ID #12261
Counsel for Defendant

CERTIFICATE

I HEREBY CERTIFY that a true copy of the foregoing was mailed September 1, 1993 to: Lowry J. Miller, MILLER, MILLER, KEARNEY & GESCHICKTER, 2701 N. Pershing Dr., Arlington, VA 22201-1499, counsel for plaintiff.

/s/ Joseph D. Roberts
Joseph D. Roberts

PROFESSIONAL BIOGRAPHIES

MILLER, MILLER, KEARNEY & GESCHICKTER

ARLINGTON, VIRGINIA 22201

* * *

LOWRY J. MILLER, born San Diego, California, November 15, 1937; admitted to bar, 1967. Virginia. *Education*: University of Richmond (B.A., 1960; LL.B., 1967), Phi Delta Phi. *Member*: Arlington County, The Virginia and American Bar Associations; Virginia State Bar; Virginia Association of Defense Lawyers; Virginia Trial Lawyers Association. [Lt. Col., USMCR]. *PRACTICE AREAS*: Domestic Relations Law; Insurance Law; Personal Injury Law.

* * *

REPRESENTATIVE CLIENTS: Government Employees Insurance Co.; . . . Prudential Property and Casualty Insurance Co.; Nationwide Insurance Co.; . . .

of this accident, that you know of, that was at your home after you went in the Rehab unit?

A. My husband and Dale.

Q. Other than your husband and Dale, that was the only ones that you knew; no one else was staying there, or anything like that?

A. No, sir.

Q. Now, there has been some questions about the autopsy that was done here and the report seems to apparently be slightly inaccurate in some manner; could you tell me, on the date of the accident, approximately how much your husband weighed?

A. 220 pounds.

Q. Why do you know that?

A. Because he wears the same exact pants size as he has for a while.

Q. At one time had he weighed a lot more or a lot less, and you knew that he had come to that approximate weight?

A. No, sir.

Q. What was his height?

A. Five foot, eight inches tall.

Q. Now, the autopsy of your husband indicates that he weighed 274 pounds; were you told that? That is obviously inaccurate, is that correct?

A. It is obviously not him.

Q. It is either not him or that is inaccurate, is that correct?

MR. ROBERTS: Well, it is either not him or it is an mistake, I mean, it won't get you anywhere.

Q. Have you checked out to see, why the, at anyway, you have gone to investigate why the autopsy report seems to be inaccurate?

A. I have been to two different Chief Medical Examiner's Office, one in Richmond and one in Fairfax.

Q. You have, and what has been the result of that?

A. The one in Richmond assured me that the scales are accurate, and it would absolutely not be, not even 30 pounds difference, in any way, shape, or form, and I was just using that as an example.

Q. Did you ask anybody whether this was a typographical error?

A. I was very upset at the time and I know I went to both Chief Medical Examiner's Offices and I do not remember word for word.

Q. When did you do this?

A. Right at, shortly after I had received the paperwork.

Q. Was that after this lawsuit was filed, or was this before the lawsuit was filed?

A. When was this lawsuit filed?

Q. In October of '92.

A. Way before October of '92.

Q. Did you look at the complete autopsy of what was supposed to be your husband's autopsy report and the photographs?

A. I did not receive the photographs until I received the interrogatories packages; that is the first time I saw the diagrams.

Q. I am speaking of the photographs at the autopsy, did you ever review any of those?

A. You mean the diagrams of the body?

Q. No, the photographs of the body?

A. No, sir.

MR. ROBERTS: Did you ever provide those to us?

MR. MILLER: I do not have them, and I do not know that they exist either, but usually they do.

MR. ROBERTS: I know you subpoenaed them and you said you sent me everything they had. Did Bayer take photographs?

MR. MILLER: Yes, I was just down there recently and I noticed there were photographs, of which were not produced in that case either, and come to think about it, your firm, no, it was not your firm.

CONTINUATION OF DIRECT

EXAMINATION BY MR. MILLER:

Q. Just to, and these are not easy questions to answer, I understand, but you do know, or do you believe

that your husband did die in this accident that is in this lawsuit?

A. Yes, because he would be home if he was not.

Q. You went to his funeral, is that correct?

A. Yes, sir.

Q. Did you see, view his body before?

A. No, sir.

Q. Closed casket?

A. Yes, sir.

Q. In regard to the scarring, did your husband have some prominent scars on his body?

A. Yes, sir.

Q. Where were they located?

A. There has been several of them. He has had neck surgery.

Q. Neck surgery, alright.

A. He had the left arm wrist surgery, and he had major back surgery.

Q. Let me go a little slower on this. His neck surgery, is that in the front of his neck, or in the back of his neck, the scar?

A. In front of his neck.

Q. On the left wrist surgery, was that a carpel tunnel release, type of a thing?

A. Yes, sir.

Q. So there was a slash?

A. All the way from up here, all the way down.

Q. Okay, those two, what was the neck surgery he had, where the scar was?

A. He had. . . .

MR. ROBERTS: You said major back surgery.

A. Major back surgery.

Q. There was a scar; would that be his lower back, or upper back, or do you recall where the scar was?

A. Lower back.

Q. Approximately how long was that?

A. Approximately, (the witness indicated measurement.)

Q. So you are talking about a foot, 12 inches, is that correct?

A. Well, I do not have a ruler, but it is about like this.

Q. Do we agree that is 8 to 12 inches?

MR. ROBERTS: Yes.

A. He had another scar.

Q. Where was that?

A. It is right here, and it is about the size of a half dollar.

Q. You indicated on his left buttocks cheek?

A. Well, it is where the leg and the hip and the back leg part.

Q. Do you know what caused that, or was that a natural, was he born with that?

A. No, he was not born with it, because it is a regular scar.

Q. Do you know what caused that?

A. No, this scar was there before we got married.

Q. The scene where this accident occurred, about how far was that from your home?

A. Less than five miles.

Q. That was an area that your husband drove on numerous occasions before this time, is that correct?

A. Yes, sir.

Q. Is he originally from this area?

A. No, sir.

Q. Where is he originally from?

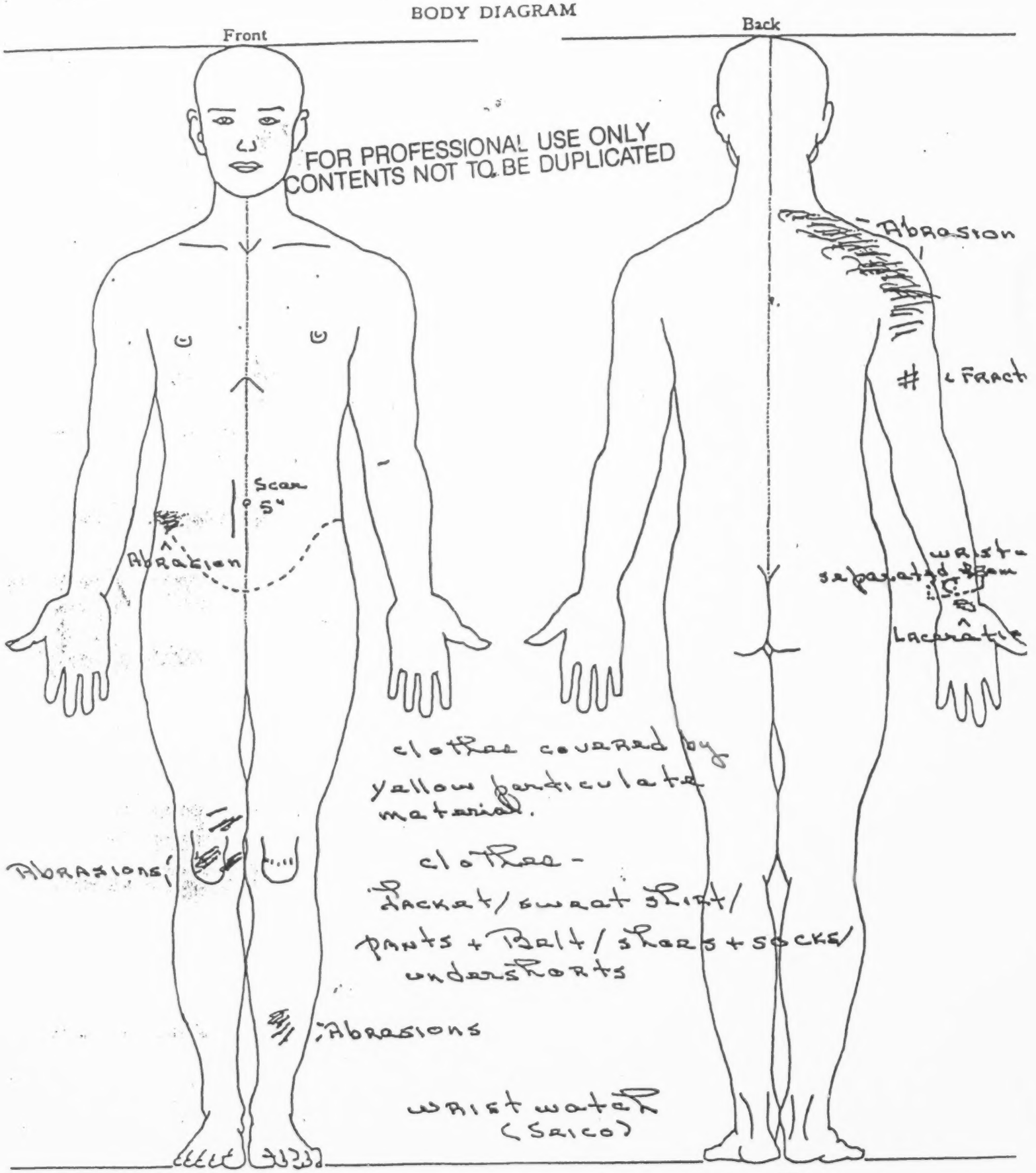
A. He was born in Kentucky.

Q. When did you all move to this area?

A. 1986-87 should be 1987 because he started work in Virginia at the beginning of 1987.

Q. You have lived at that same address throughout this period of time?

BODY DIAGRAM



Decedent's Height 69 1/2 inches

Name Edward F. Holbrook

Examined By R. C. Bayer Date 11-20-

FAUQUIER HOSPITAL, INC.

VITAL SIGNS

* * *

WEIGHT:

Brought to ER via Remington Rescue, Victim of MVA c head trauma & scrape marks on body to indicate it was dragged on the road. Body wrapped in yellow hazmat sheet Dr. Smith gave permission to move body.

NURSES SIGNATURE: /s/ D. Graves WPN

* * *

D.D.A. E819.9

Pronounced by Dr. Regan @ 03:10

0405 Trooper Hawkins: here to identify body.

Wife name Diane

Fathers name Edward Sr. 914-832-9144

* * *

[COM]PLAINT	DATE	ARRIVAL TIME
****DOA*****	11/19/91	02:55

METHOD OF ARRIV.	PAT.ACCT.NO.	REQ. BY
SQUAD	695285	KG

[PATI]ENT NAME	DATE OF BIRTH	MSE
DOE JOHN	02 06 50	41
Holbrook Edward	~~01/01/01~~	~~701~~

SEX	M.ST.	RACE	FIN. CL.	PATIENT'S PERSONAL PHYSICIAN
M	U	W	04	

* * *

DISPOSITION

HOME	EXPIRED
AMA/LWE	✓ D.O.A.
ADMITTED:	A.M. TO: P.M.
TRANSFERRED:	
M.O.D. ___	
INSTRUCTIONS GIVEN	[ ] [Illegible] [ ] 0435

[ILLEGIBLE] SIGNATURE /s/ [Illegible]

[12] A He worked on a farm.

Q Where?

A Red Rose Farm, Quaker Hill, Pawling.

Q What did he do there?

A Whatever they do on a farm.

Q Okay and he worked for Pawling Corporation for some period of time, do you know when he started with Pawling Corporation?

A June 1983.

Q Okay, so he was working for Pawling Corporation when you were married, you were married in September of '83.

A Oh, we got married in September of '82, I'm sorry.

Q And how long did he work for Pawling Corporation?

A Until 1989.

Q And was he laid off or fired or what happened?

A Out on disability.

Q What type of disability?

A New York State Disability.

Q What was his injury?

A His leg, he had pins and screws.

[Wrong Body. No obvious scars noted on Body Diagram.]

* * *

[15] A No.

Q He did not?

A No.

Q What did he do from 19 – when he was let go from Pawling Corporation in 1989, where did he go?

A He didn't go anywhere, he was on New York State Disability, he couldn't work.

Q Okay, as long as he was taking the disability he couldn't work; is that right?

A Yes.

Q And he just stayed at home then?

A Yes.

Q And your testimony is that he stayed home with the children?

A Yes.

Q And when did he decide to move to Virginia?

A July.

Q July of what, what year?

A '91.

Q Okay. Do you recall when in '89 he was let go from Pawling, in other words was it the winter, summer, spring, do you?

A He didn't return to work because of his injury.

* * *

[18] [illegible] to what he was doing, he needed to be trained in a different area.

Q Okay.

A He was doing physical labor, he could not go [illegible] to that.

[Photo of Dale cutting down Oak Tree.]

Q Okay. Well, can you tell me how it came about, you tell him March of 1991 that he should move out?

A Yes.

Q And your testimony here today under oath is, did that because you wanted him to get back to work to get trained? Is your answer yes?

A Yes.

Q And that's the only reason?

A Yes.

Q It had nothing to do with any physical abuse of [illegible].

A No.

Q Or the children?

A No.

Q Did you ever report any physical abuse of you the children to any authorities?

A Yes.

Q When was that?

* * *

[28] MR. ROBERTS: Weren't you living as husband and wife –

MR. JOSHI: Let me just clarify for the record, you're talking about '83 to '89 at one point; are you changing the time frame?

BY MR. ROBERTS:

Q Weren't you living as husband and wife from '83 to '89?

A Yes.

Q Okay, That's the period of time that I'm talking about now. The '89 to '91 period of time I think you've already testified that you never saw him drink anything?

A No.

Q So, he basically had no drinking problem even so much as a couple of beers after the accident at the Pawling Corporation?

A Not while he was working there.

Q Or that you heard about?

A No.

Q Am I correct, you didn't hear anything about it?

A Yes.

* * *

COMMONWEALTH OF VIRGINIA

(SEAL)

YOUR PRIVILEGE TO DRIVE IN VIRGINIA
IS SUSPENDED UNTIL YOU TAKE THIS
FORM TO D.M.V. FOR REINSTATEMENT

OFFICIAL RECEIPT
LOUDOUN GENERAL DISTRICT
TRAFFIC

DATE: 03/11/91
TIME: 11:32:19
CASHIER: LAL
REG: LD09
ACCT OF:
HOLBROOK, DALE B.
CHECK: $99.00
DESCRIPTION
1: TRIAL: 02/12/91
2: OFFENSE: 01/04/91

CODE	DESCRIPTION	PAID
229	CHMF	2.00
112	PROCESS FEE	20.00

ACCOUNT:
107GT91000986-00
RECEIPT: 91000006730
TYPE: FULL PAYMENT
RECD:
HOLBROOK, DALE B.
CHARGE: NO DL
OPER: 400-78-4837 (DMV)

CODE	DESCRIPTION:	PAID
110	FINES & FORFEITURES	75.00
140	PROCESSING FEE	2.00

TOTAL TENDERED: $ 99.00
TOTAL AMOUNT PAID: $ 99.00
TOTAL CHARGE AMT: $ .00

CLERK OF COURT: ANN WILLINGHAM

VIRGINIA:

IN THE CLERK'S OFFICE OF
THE CIRCUIT COURT OF FAUQUIER COUNTY

In re Estate of Dale Bruce Holbrook, deceased
File No. CWF92-219

ORDER

CAME THIS 12th DAY OF MARCH, 1996, Carlin T. Hunter by counsel, upon the motion of Carlin T. Hunter for the entry of an order permitting Carlin T. Hunter to resign as administratrix; and

IT APPEARING that reasonable notice of said motion has been provided to the parties in interest; and

IT APPEARING that there is no reasonable basis for denial of said motion; it is therefore

ORDERED, ADJUDGED and DECREED that the motion of Carlin T. Hunter for permission to resign as administratrix of the estate of Dale Bruce Holbrook is hereby granted.

ENTERED this 12th day of March, 1996.

/s/ William Shore Robertson
JUDGE

I ask for this:

/s/ Lowry J. Miller
Lowry J. Miller, Esquire
2701 N. Pershing Drive
Post Office Box 1480
Arlington, Virginia
22210-0780
V.S.B. No. 5070
Counsel for Carlin T. Hunter

Seen and agreed:

/s/ Lisa Marie Holbrook
Lisa Marie Holbrook
Post Office Box 562
Millerton, N.Y. 12546
for herself and for
Nicole Holbrook,
Dale B. Holbrook, Jr.
and Amber Holbrook

cc: Martin Miller
Holbrook
3/13/96

VIRGINIA: IN THE CLERK'S OFFICE
OF THE CIRCUIT COURT
OF FAUQUIER COUNTY, MAR 13 1996

This order/~~decree~~ of the Court entered MAR 12 1996 is this day recorded in the current ~~court~~/will book of this county.

Teste: /s/ Wm. D. Harris.
Clerk

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Notice and Motion For Permission To Resign, together with the proposed order, were mailed, first class postage prepaid, to Lisa Marie Holbrook, for herself and for Nicole Holbrook, Dale B. Holbrook, Jr. and Amber Holbrook, at P.O. Box 562,

Millerton, New York 12546, on the 26 day of ~~January~~ February, 1996.

/s/ Lowry J. Miller
Lowry J. Miller

[Envelope Information]

(Filed: Mar. 22, 1996)

CLERK OF CIRCUIT COURT
FAUQUIER COUNTY
40 CULPEPER STREET
WARRENTON, VA 22186

RETURN TO SENDER

FORWARDING TIME HAS EXPIRED

Ms. Lisa Marie Holbrook
Post Office Box 562
~~Millerton, New York 12546~~

February 24, 1997

(Filed Apr. 8, 1997)

JUDGE

c/o Wm. D. Harris-Court Clerk
Circuit Court of Fauquier County
40 Culpeper St.
Warreton, Virginia 20186
ph (540) 347-8610

Subject: Recoup Expenses due to change of Court Appointed Administrator – Case: CL96-7

Dear Sir:

No one informed me, until a "Motion to Quash" notice for the hearing on February 11, 1997 was mailed out, of the following:

On March 12, 1996 (After this suit was in litigation), the judge (on the case) and the lawyer changed the Court Appointed Administrator, who is the secretary to the lawyer for Lisa Marie Dutcher a.k.a. Lisa Marie Holbrook.

Note: The secretary to the lawyer was previously "SERVED" with legal documents since she was the as Administrator of record in November 16, 1994 on this case. The change of Court Administrator occurred after I paid out $12.00 plus $9.60 plus $326.00 for a total of $347.60 to have the Administrator served. I also incurred additional expenses for Travel: $398.00 plus Treasure Coast Airport Shuttle: $29.00 plus Car Rental: $132.07 etc.. Approximate Total: $906. dollars.

Since I was notified of this after the "Motion to Quash" (which effects this case greatly) I feel all costs from the date of November 18, 1993 should be reimbursed to me forthwith by the court. It is the faults of the Court and the

lawyer for not giving "reasonable notice of said motion has been provided to the parties in interest" resulting on statute of limitation for Lisa Marie Dutcher a.k.a. Lisa Marie Holbrook, of when I was informed had already been expired. It is my opinion that the court should rule the full amount of "Motion for Judgment" in my favor. Obviously the "change" of Court Administrator was done to delay and confound this case I expect a reply to this matter within 21 days or this matter will be considered "legally concluded" in my favor.

Sincerely,

/s/ Diane L. Holbrook
Diane L. Holbrook
P. O. Box 1512
Hobe Sound, Florida 33475-1512

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was mailed, first class postage prepaid, on *April 8*, 1997, to:

MILLER, MILLER, KEARNEY
& GESCHICKTER, LLP
10400 Eaton Place, Suite 312
Fairfax, Virginia 22030

/s/ Diane L. Holbrook
Diane L. Holbrook

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

DIANE L. HOLBROOK, As Administrator of the Estate of Edward Jesse Holbrook Plaintiff, v. LISA MARIE DUTCHER a.k.a. LISA MARIE HOLBROOK, As Administrator of the Estate of Dale Bruce Holbrook or CARLIN T. HUNTER, As Administrator of the Estate of Dale Bruce Holbrook, et al. Defendant. SERVE ALSO: Nationwide Mutual Insurance Company c/o Robert C. Wetzel, Esq. 800 Graves Mill Road Lynchburg, Virginia 24506	* AT LAW NO. CL96-7

MOTION NOT TO QUASH & MOTION NOT TO DISMISS

COMES NOW Diane L. Holbrook, the Plaintiff, and moves for the entry of the full amount of "Motion for Judgment" as well as amended motion for judgment in plaintiff's favor for the above-styled case and states in support thereof as follows:

1. Alleged signature that appeared on the document dated March 12, 1996 does not show that she had been married since June, 1995.

2. Alleged signature may not have been "Seen and agreed:" as stated.

3. See letter attachments previously filed on April 8, 1997 dated February 24, 1997.

COURT RELIEF OF PAST, PRESENT, FUTURE COSTS

COMES NOW Diane L. Holbrook, the Plaintiff, and states in support thereof as follows:

1. On April 8, 1997, I was informed about there being no excuse for not having an attorney because there is legal aid services. I do not qualify for legal aid services.

2. Due for my not being qualified for legal aid services, I request for past, present, and future costs occurred for my defense.

Diane L. Holbrook

By /s/ Diane L. Holbrook
Of Plaintiff

Diane L. Holbrook
P. O. Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (561) 545-9793

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was mailed on April 23, 1997, to:

MILLER, MILLER, KEARNEY
& GESCHICKTER, LLP
10400 Eaton Place, Suite 312
Fairfax, Virginia 22030

/s/ Diane L. Holbrook
Diane L. Holbrook

[Envelope Information]

(Filed: Mar. 22, 1996)

CLERK OF CIRCUIT COURT
FAUQUIER COUNTY
40 CULPEPER STREET
WARRENTON, VA 22186

RETURN TO SENDER

FORWARDING TIME HAS EXPIRED

Ms. Lisa Marie Holbrook
Post Office Box 562
~~Millerton, New York 12546~~

[Information From Christmas Card Envelope
Diane Holbrook Received]

Dutcher
PO Box 223
Wingdale NY
12594

Diane Holbrook
P.O. Box 1512
Hobe Sound FL
33475-1512

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

DIANE L. HOLBROOK, ADMINISTRATOR OF THE ESTATE OF EDWARD JESSE HOLBROOK Plaintiff, v. LISA MARIE DUTCHER, a.k.a. LISA MARIE HOLBROOK, As Administrator of the Estate of Dale Bruce Holbrook, Defendant.	*	AT LAW NO. CL96-7

MOTION TO DISMISS

COMES NOW Lowry J. Miller, Esquire, appearing specially on behalf of Lisa Marie Dutcher, a.k.a. Lisa Marie Holbrook, and moves for the entry of an order of dismissal of the above-styled wrongful death action with prejudice, on the grounds set forth below:

1. Dale Bruce Holbrook, the alleged tortfeasor in this cause, is deceased, having died on the date of the accident alleged in this wrongful death suit.

2. Under Virginia law, the plaintiff may not sue a dead man and may only sue the lawful personal representative, to-wit, the Administrator of the Estate of Dale Bruce Holbrook.

3. Lisa Marie Dutcher, a.k.a. Lisa Marie Holbrook, is not and has never been the personal representative of Dale Bruce Holbrook, and therefore this cause should be dismissed with prejudice.

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

DIANE L. HOLBROOK, ADMINISTRATOR OF THE ESTATE OF EDWARD JESSE HOLBROOK,	*	
Plaintiff,	*	
v.	*	AT LAW NO. CL96-7
CARLIN T. HUNTER, ADMINISTRATOR OF THE ESTATE OF DALE BRUCE HOLBROOK, et al.,	*	
Defendants.	*	

ORDER

THIS CAUSE came on this 21st day of May, 1997, to be heard upon the motion to dismiss of Nationwide Mutual Insurance Company; upon the motion not to allow dismissal and the motion to reverse the motion to quash originally sustained filed by the plaintiff, *pro se*, and, after argument by counsel for Nationwide and by the plaintiff;

IT APPEARING TO THE COURT that the motion to dismiss should be granted, the motion not to allow dismissal should be denied, and the motion to reverse the motion to quash should be denied; it is therefore

ORDERED, ADJUDGED and DECREED that the motion to dismiss is hereby granted, the motion not to dismiss is hereby denied, and the motion to reverse the motion to quash is hereby denied; and this cause is hereby dismissed with prejudice.

[1]

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

DIANE L. HOLBROOK, As Administrator of the Estate of Edward Jesse Holbrook Plaintiff, v. **LISA MARIE DUTCHER** a.k.a. LISA MARIE HOLBROOK, As Administrator of the Estate of Dale Bruce Holbrook or **CARLIN T. HUNTER**, As Administrator of the Estate of Dale Bruce Holbrook, et al., Defendant. SERVE ALSO: Nationwide Mutual Insurance Company c/o Robert C. Wetzel, Esq. 800 Graves Mill Road Lynchburg, Virginia 24506	*	AT LAW NO. CL96-7

TO PROSECUTE APPEAL

(Filed: May 21, 1997)

I retain, Diane L. Holbrook, Plaintiff, of P.O. Box 1512, City of Hobe Sound, County of Martin, State of Florida, to perfect and prosecute an appeal from the judgment of the Circuit Court on May 21, 1997, in the case of Diane L. Holbrook, As Administrator of the Estate of Edward Jesse Holbrook v. Lisa Marie Dutcher a.k.a. Lisa Marie Holbrook, As Administrator of the Estate of Dale

Bruce Holbrook or Carlin T. Hunter, As Administrator of the Estate of Dale Bruce Holbrook, et al. with serve also Nationwide Mutual Insurance Company, at law No. CL96-7.

Diane L. Holbrook
P.O. Box 1512
Hobe Sound, Florida 33475-1512

By: Diane L. Holbrook
Diane L. Holbrook

_Certificate_of_Service_

I hereby certify that a true and correct copy to prosecute appeal was handed on May 21, 1997 to:

Miller, Miller, Kearney & Geschickter, LLP
10400 Eaton Place, Suite 312
Fairfax, Virginia 22030

in the Circuit Court of Fauquier County

/s/ Diane L. Holbrook
Diane L. Holbrook

COMMONWEALTH OF VIRGINIA

(SEAL)

FAUQUIER COUNTY
OFFICE OF THE COMMONWEALTH'S ATTORNEY

[Names Omitted In Printing]

August 20, 2001

Ms. Diane Holbrook
P.O. Box 1512
Hobe Sound, FL 33475-1512

Re: Commonwealth vs. James Alan Cribb
Sentencing Date: July 23, 2001

Dear Ms. Holbrook:

I enclose herewith a copy of the Court's order of July 23, 2001, reflecting its final ruling in the above matter.

As you will see at the bottom of Page 2, the Court ordered restitution in the specific amount of $1392.54 and in that same paragraph specifically sets forth the sentence. The defendant will have six months to pay his Court costs ($1096.00) and then will begin the payment of restitution to you.

I hope this answers your questions.

Sincerely,
/s/ Yates Palmer
Yates Palmer
Victim-Witness Coordinator

Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

October 22, 2003

Commonwealth Of Virginia
Fauquier County
Office Of The Commonwealth's Attorney
40 Culpeper Street
Warrenton, Virginia 20186
Telephone: (540) 347-8714

Dear To Whom Concern;

I, Diane L. Holbrook, called twice on October 13, 2003 approx. 4:00 p.m. at (540) 347-8714 and left messages on the answer machine for the Victim-Witness Coordinator including Case name and number involving specifically non-payment of restitution since July 23, 2001 sentencing and Order by the Court by Judge Jeffrey W. Parker to immediately start payment of restitution after required to pay the Court costs of 6 months. It has been over 2 years, but less than 3 years of sentence imposed for probation. Therefore, I'm demanding 8% interest compounded daily since date of July 23, 2001 Order and sentencing by the Court.

Re: James Alan Cribb
SSN: 262-29-5975
DOB: 10/11/55
White male
Commonwealth vs. James Alan Cribb
Criminal Nos. Cr01-3 &4,46

Respectfully Yours,

/s/ Diane L. Holbrook
Diane L. Holbrook
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

January 13, 2004
H. Russell Potts, Jr.
Senator of Fauquier County

Dear H. Russell Potts, Jr.

I, certified mail return receipt signed received this letter to the Commonwealth of Virginia. To this day, I, Diane L. Holbrook, have not received any correspondence from them or the Fauquier County Court. Please use your power to see to it that I receive my restitution plus 8% interest compounded daily since date of order as stated.

Respectfully Yours, /s/ Diane L. Holbrook

[This was faxed by Mr. Mr. Mail Box to 1-540-665-8399 on 01-13-04 at 10:46.]

(SEAL) Florida Department of Agriculture &
Consumer Services
CHARLES H. BRONSON, Commissioner
Tallahassee, Florida

November 13, 2003

Division of Consumer Services
2005 Apalachee Pkwy
Tallahassee, Florida 32399-6500
Phone: 1-800-HELP-FLA
URL: http://www.800helpfla.com
Refer To: 0310-36157 / HH

DIANE HOLBROOK
PO BOX 1512
HOBE SOUND, FL 33475-1512

Subject: COATES TIRE

Dear DIANE HOLBROOK:

In response to your complaint, we have received the enclosed reply stating the position of the business in this matter. After a review of the business response, we have closed our file.

As mandated by s.570.544, Florida Statutes, the Division of Consumer Services serves as the clearinghouse for consumer complaints. The authority of the Department in this matter is limited to informal mediation of disputes. In our capacity as mediators, we have made an effort to assist you in reaching an agreement by facilitating an exchange of information between you and the business. Florida law does not authorize this agency to order refunds or reimbursements for damages, force a settlement, or provide legal services.

Thank you for contacting the Department with your complaint. Please contact us if you need assistance on any other consumer related issue in the future.

Sincerely,

/s/ Hilda Hines

Hilda Hines
Senior Consumer Complaint Analyst
850-410-3764 / 1-800-435-7352 (Florida Only)
E-mail: hinesh@doacs.state.fl.us

(SEAL) Florida Department of Agriculture &
Consumer Services
CHARLES H. BRONSON, Commissioner
Tallahassee, Florida

October 28, 2003

Division of Consumer Services
2005 Apalachee Pkwy
Tallahassee, Florida 32399-6500
Phone: 1-800-HELP-FLA
URL: http://www.800helpfla.com
Refer To: 0310-36157 / HH

DIANE HOLBROOK
PO BOX 1512
HOBE SOUND, FL 33475-1512

Re: COATES TIRE

Dear DIANE HOLBROOK:

This is to acknowledge receipt of your complaint against the above-referenced business and to advise you that we have begun the informal mediation process, as mandated by section 570.544(3), Florida Statutes.

We mailed the business a copy of your complaint, along with a request that the business respond to your grievance. Please be aware that this process may take between 60 and 90 days.

Please include the reference number displayed above on future correspondence, and address any questions or concerns to my attention.

Sincerely,

/s/ Hilda Hines
Hilda Hines
Senior Consumer Complaint Analyst
850-410-3764 / 1-800-435-7352 (Florida Only)
E-mail: hinesh@doacs.state.fl.us

Time Limits for Filing a Charge

A charge must be filed with EEOC within **180 days** from the date of the alleged violation in order to protect the charging party's rights. [Note: Dec. 3, 2001 Rehearing Denied in Supreme Court May 11, 2002 is *less than 170 days*.] This 180-day deadline may be increased up to **300 days** if the charge also is covered by certain state or local anti-discrimination laws. Under all laws enforced by EEOC, except the **EPA**, a charge must be filed with EEOC before going to court.

These time limits do not apply to complaints under the **EPA**. However, since many **EPA** complaints also raise **Title VII** sex discrimination issues, it may be better to file charges under both laws within the time limits given.

---

(2)

Supreme Court, U.S.
FILED
MAY 25 2004
OFFICE OF THE CLERK

No. 03-1242

In The

Supreme Court of the United States

In re DIANE L. HOLBROOK,

Petitioner.

On Petition For An Extraordinary Writ Of Mandamus/Writ Of Prohibition To The United States Court Of Appeals For The Eleventh Circuit To The District Court Of Appeal Of The State Of Florida Fourth District To The Circuit Court Of Fauquier County Of The State Of Virginia

PETITION FOR REHEARING

DIANE L. HOLBROOK
Petitioner
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

QUESTIONS PRESENTED FOR REVIEW

1. Whether the U.S. COA Eleventh Circuit and U.S. District Court misinterpret, pertaining to "Allied Van Lines, Inc." jurisdiction issues, for allegedly violating the Florida Unfair And Deceptive Trade Practices Act by acquisition theoretical authority so broadly thereby diminishing the sovereign territory of the State of Florida without its consent.

2. Whether the Fourth District COA Of Florida erred in a decision that conflicts with another (same Court) Fourth District COA Of Florida decision in *LEHNER v. DURSO*, 816 So.2d 1171 in 2002 (only a year earlier) to prevent further intracircuiting confusion and inequity.

3. Whether Alan Clayton Espy, Esquire and Clerk of the Court and/or Judge William L. Roby are chargeable with abuses of judicial powers guilty of malfeasance and/or nonfeasance OR were their actions an inadvertence, surprise, or excusable neglect.

4. Whether Lowry Jock Miller, Esquire and Clerk of the Court and/or retired Judge William Shore Robertson, etc. chargeable for alleged fraud, conflict of interest, or other misconduct(s) and with abuses of judicial powers guilty of malfeasance and/or nonfeasance.

5. Whether Raoul C. Cantero, III, Esquire and retired U.S. District Chief Judge Edward B. Davis/U.S. Magistrate Judge Frank J. Lynch, Jr. and/or Clerk of the Court chargeable with abuses of judicial powers for conflict of interest(s) and other misconducts and guilty of malfeasance and/or nonfeasance OR whether the Clerk of the Court was the primary problem of Court clerical mistakes arising *from oversight on records not being corrected for over five years now.*

PETITION FOR REHEARING

Petitioner, Diane L. Holbrook respectfully requests that this Court grant the Petition For Rehearing seeking review of the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition vacating denied and then be Granted and Certiorari(s) with Rehearing(s) vacating denied and then be Granted. Pursuant to Rule 44 of this Court's Rules, this Petition has been filed within 25 days of the denial of the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition.

REASONS FOR GRANTING THE REHEARING

Three of the four waiver(s) Respondent(s) signed checked box indicating "There are multiple respondents, and I do not represent all respondents." Rehearing will break down isolated text with appropriate respondents.

Previously, Allied Van Lines, Inc., a foreign corporation. Petitioner's Petition For Rehearing regarded to issues involving case(s) of first impression because it *appeared* to present an entirely novel question of law that was never before considered by any court questioning jurisdiction. However, Petitioner came across a case law *Hudgins Moving & Storage Co., Inc., . . . , Plaintiff, v. American Express Company, and American Express Travel Related Services Company, Inc., Defendants*, 292 F. Supp. 2d 991 (November 19, 2003). Whereas, state Court was granted jurisdiction. "Finally, the district court found that federal preemption did not provide a ground for removal of the state law claims to the district court." Second reason, *see* The Kansas City Star, "Sixteen moving companies, 74 employees indicted in Miami," March 4, 2003, available at http://www.kansascity.com/mld/kansas city/business/5314607.htm?1c.

These are actions for quantum meruit/unjust enrichment, as an alternative count for merit(s). In the event Petitioner is not successful in prosecution of Breach of Contract and Fraud by misrepresented material facts, either intentionally and knowingly *or* innocently *or*

negligently, with the intent that the Court may rely on it, in case the Petitioner were to have no adequate remedy at law. The Respondents have been unjustly enriched due to the fact that it has benefited from prepaid in full, but has failed to render all that is prepaid for. The Respondents will therefore have gained a windfall unless relief is granted.

SUMMARY OF SEPARATED ISOLATED ARGUMENTS FOR RESPONDENTS

In the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition, Questions Presented part of 1 regarding Rules of Civil Procedure Rule 1.540(a), Rule 1.500(a) and Rule 1.500(e). All of Questions 2 and 3. Jurisdiction section. Statement of the Case paragraphs 1 and 2. Reasons For Granting The Writ paragraph 2. Appendix 1 thru 70. Conclusion. In this Petition for Rehearing content, Reasons for Granting the Rehearing paragraphs 1 and 3. These are, so far, the isolated arguments for the following Respondents:

1. Daniel F. Dill, Esquire ROGERS, COLEMAN, PENDAS, KNAPP & DILL, P.A.
2. Alan Clayton Espy, Esquire
3. Diran V. Seropian, Esquire
4. Elizabeth A. Metzger, Esquire/Edwin E. Mortell, III, Esquire/Michael Balducci, Esquire PETERSON, BERNARD, VANDENBERG, ZEI, GEISLER & MARTIN, P.A.
5. District Court of Appeal Fourth District of Florida Louis F. Hubener, Esquire

In the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition, Questions Presented in all of Case(s) No. 02-1613. Constitutional Provisions And Statutes Involved. Statement of the Case paragraph 3. Reasons for Granting The Writ paragraph 1. Appendix 71, 72, 75 thru 88. Conclusion. In this Petition for Rehearing content, Reasons for Granting the Rehearing paragraphs

1, 2 and 3. These are, so far, the isolated arguments for the following Respondents:

1. Gilda M. Chavez, Esquire DOMBROFF & GILMORE, P.C.
2. Clerk of Court, Court Administration, United States District Court
3. United States Court of Appeals Eleventh Circuit

In the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition, Questions Presented in all of Case(s) No. 01-31. Statement of the Case paragraphs 4, 5 and 7. Appendix 73, 74, 89 thru 137. Conclusion. In this Petition for Rehearing content, Reasons for Granting the Rehearing paragraphs 1 and 3. These are, so far, the isolated arguments for the following Respondents:

1. Miller, Kearney & Geschickter, LLP
2. Lowry Jock Miller, Esquire
3. Raoul G. Cantero, III, Esquire/Eric N. Assouline, Esquire/Natalie J. Carlos, Esquire ADORNO & ZEDER, P.A.
4. Clerk of Court, Court Administration, United States District Court
5. United States Court of Appeals Eleventh Circuit
6. c/o William D. Harris – Court Clerk Circuit Court of Fauquier County

In the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition, Questions Presented number 4. Statement of the Case paragraph 6. Appendix 143 thru 178. Conclusion. In this Petition for Rehearing content, Reasons for Granting the Rehearing paragraphs 1 and 3. These are, so far, the isolated arguments for the following Respondents:

1. Miller, Kearney & Geschickter, LLP
2. Lowry Jock Miller, Esquire
3. Carlin T. Hunter, As Administrator of the Estate of Dale Bruce Holbrook, et al.

4. c/o William D. Harris – Court Clerk Circuit Court of Fauquier County

In the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition, Statement of the Case paragraph 9. Appendix 179 thru 181. In this Petition for Rehearing content, Reasons for Granting the Rehearing paragraphs 1 and 3. These are, so far, the isolated arguments for the following Respondents:

1. c/o William D. Harris – Court Clerk Circuit Court of Fauquier County
2. Commonwealth of Virginia Fauquier County – Office of the Commonwealth's Attorney
3. H. Russell Potts, Jr. – Senator of Fauquier County
4. James Alan Cribb

I. The Court of Appeals' Interpretation of Rules Of Civil Procedure 1.140(a)(3) Conflicts with this Court's Interpretation of That Section

This Court previously interpreted RCP 1.140(a)(3) "If the court permits or requires an amended . . . pleading . . . , the pleading or statement shall be served within 10 days after notice of the court's action. (Petitioner served and filed within 10 days). Responses to the pleadings or statements shall be served within 10 days of service. . . . (Only Respondent, Pressure Cleaning Services, Inc., a Fla. corp. with their Insurance Carrier served and filed within 10 days)." *DOUBLE STANDARD issues apply* to Petitioner and Respondents in *Joseph J. LEHNER v. Patrick A. DURSO*, 816 So.2d 1171 (Fla. 4th DCA 2002). Parties must show (1) excusable neglect in failing to respond; (2) meritorious defenses; and (3) that the party acted with due diligence in seeking relief. The parties and their Insurance Carriers failure to demonstrate excusable neglect. Failure to plead or otherwise defend within time allotment. There are two different ways to enter Defaults. For Clerk of the Court to enter is filed entitled "Motion For Default". See

violation of Clerk from Rules of Civil Procedure Rule 1.540(a), Rule 1.500(a) and Rule 1.500(e) regarding clerical mistakes . . . arising from oversight or omission may be corrected *by the court AT ANY TIME on its own initiative* . . . . (It has been way over a year).

See *Metro Sporting Goods, Inc. v. Mutual Employees Trademart, Inc.*, 176 So. 2d 578 (Fla. 3rd DCA 1964). If any party refuses to obey an order made under Rules of Civil Procedure 1.28 to produce any document . . . the court may "(iii) . . . or rendering a judgment by default against the disobedient party;".

See *STATE ex rel. HARDIE v. COLEMAN*, 115 Fla. 119, 155 So. 129 (1934), 92 A.L.R. 988 (Fla. Supreme Court Decision) "Malfeasance as ground for suspension and removal of officer (Lowry Jock Miller, Esquire) (Alan Clayton Espy, Esquire) (Clerk of the Court), etc. . . . , refers to evil conduct or illegal deed, doing of that which one ought not to do, performance of act by officer in official capacity that is wholly illegal and wrongful" (Constitution Article 4, § 15). "Nonfeasance as ground for suspension and removal of officer (Clerk of the Court with reason it has been way over a year), refers to neglect or refusal, without sufficient excuse, to do that which was officer's legal duty to do" (Constitution Article 4, § 15).

CONCLUSION

For the foregoing reasons, the Petition For Rehearing should be Granted because decisions are entirely a question of laws and are freely reviewable. Also, in part, pursuant to Court Rules for Court clerical mistakes immediately to be corrected resulting cases already won by Petitioner. Petitioner prays that this Honorable Court will grant any other relief deemed just and proper.

Respectfully submitted,

DIANE L. HOLBROOK
Post Office Box 1512
Hobe Sound, Florida 33475-1512
Telephone: (772) 545-9793

CERTIFICATE OF PETITIONER

Pursuant to Rule 44 of this Court's Rules, Petitioner certifies that the issues presented in this Petition For Rehearing of the Petition For An Extraordinary Writ Of Mandamus and/or Prohibition concerns a substantial legal ground not previously presented to this Court. Petitioner further certifies that these issues, which raise important questions of constitutional jurisprudence and State of Florida County Court's jurisdiction, is restricted to the grounds specified in Rule 44.2 and is presented in good faith and not for delay.

This the 25th day of May, 2004

_____

Diane L. Holbrook
Petitioner

APPENDIX

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

May 3, 2004

Ms. Diane L. Holbrook
PO Box 1512
Hobe Sound, FL 33475-1512

Re: In Re Diane L. Holbrook
No. 03-1242

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for a writ of mandamus and/or prohibition is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

December 1, 2003

* * *

Re: Diane L. Holbrook
v. Allied Van Lines, Inc.
No. 02-1613

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

October 6, 2003

* * *

Re: Diane L. Holbrook
v. Allied Van Lines, Inc.
No. 02-1613

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

October 1, 2001

* * *

Re: Diane L. Holbrook
v. Nationwide Mutual Insurance Company
No. 01-31

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

December 3, 2001

* * *

Re: Diane L. Holbrook
v. Nationwide Mutual Insurance Company
No. 01-31

Dear Ms. Holbrook:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk

WAIVER

Supreme Court of the United States

No. 03-1242

Diane L. Holbrook (Petitioner)	)	District Court of Appeal
	)	Fourth District of Florida
	)	(Respondent)

I DO NOT INTEND TO FILE A RESPONSE to the petition for a writ of ~~certiorari~~ mandamus unless one is requested by the Court.

Please check one of the following boxes:

☐ Please enter my appearance as Counsel of Record for all respondents.

☒ **There are multiple respondents, and I do not represent all respondents.** Please enter my appearance as Counsel of Record for the following respondent(s):

District Court of Appeal, Fourth District of Florida

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain name change since bar admission):

Signature /s/ Louis F. Hubener

Date: **March 18, 2004**

(Type or print) Name Louis F. Hubener

☒ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm Office of the Attorney General

Address PL01 – The Capitol

City & State Tallahassee, FL Zip 32399-1050

Phone (850) 414-3300

* * *

WAIVER

Supreme Court of the United States

No. 03-1242

☒ **There are multiple respondents, and I do not represent all respondents**. Please enter my appearance as Counsel of Record for the following respondent(s):

Eileen Buchmann

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain name change since bar admission):

Signature /s/ Daniel F. Dill

Date: **3/30/04**

(Type or print) Name Daniel F. Dill

☒ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm Rogers, Coleman, Pendas, Knapp & Dill, P.A.

Address 34 East Pine Street

City & State Orlando, Florida Zip 32801

Phone (407) 849-6459

* * *

WAIVER

Supreme Court of the United States

No. 03-1242

☒ **There are multiple respondents, and I do not represent all respondents**. Please enter my appearance as Counsel of Record for the following respondent(s):

Pressure Cleaning Services, Inc.

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain name change since bar admission):

Signature /s/ Alan C. Espy

Date: **April 28, 2004**

(Type or print) Name Alan C. Espy

☒ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm Alan C. Espy, Esq.

Alan C. Espy PA

Address 3300 PGA Blvd., Suite 630

City & State Palm Beach Gardens, FL Zip 33410

Phone 561/627-4775

* * *

FAX COVER PAGE

MR. MAILBOX
MAILING & BUSINESS CENTERS
8949 S.E. Bridge Road • Hobe Sound FL 33455
Phone: 772-546-7906 • Fax: 772-546-5329

If any portion of this transmission is unclear, please call (772) 546-7906.
Reply by FAX to: (772) 546-5329

DATE: 5-7-04 TIME: 1:42 p.m.

TO: Gilda Chavez

PHONE:

FAX: (305) 670-4846

FROM: Diane L. Holbrook

PHONE: (772) 545-9793

FAX:

SUBJECT: Indicted Moving Companies and Employees
Is Allied Van Lines Indicted??

KansasCity•com
THE KANSAS CITY STAR.

Posted on Tue, Mar. 04, 2003

Sixteen moving companies, 74 employees indicted in Miami

ADRIAN SAINZ
Associated Press

MIAMI – Sixteen interstate moving companies and 74 employees were indicted Tuesday on federal charges they lured hundreds of customers with low estimates, then inflated their prices and didn't deliver until the higher prices were paid.

The companies and individuals were charged in eight indictments accusing them of wire fraud, extortion, false billing, money laundering and conspiracy. The sixteen companies all were contacted by customers over the Internet and offered estimates without having seen the property, the U.S. Attorney's Office said. Most of the moves were interstate, but some were intrastate.

The quoted price was commonly doubled or tripled, but in one case a moving company went as high as seven times the original estimate, U.S. Attorney Marcos Jimenez said Tuesday.

"There were hundreds of victims and we're still counting," he said. "There are warehouses, plural, full of goods that have never been returned to these individuals."

The FBI made more than 45 arrests on Tuesday.

Additionally, four Florida circuit judges issued injunctions Tuesday that shut down 11 of the companies for allegedly violating the Florida Unfair and Deceptive Trade Practices Act, state Attorney General Charlie Crist said in a statement.

"These individuals struck at a quintessential freedom and value, which is the freedom to move about the country," Jimenez said.

http://www.kansascity.com/mld/kansascity/business/5314607.htm?1c